



THE EMPLOYMENT TRIBUNALS

Claimants: (1) Mr Stephen Truscott
(2) Ms Lianne Truscott
(3) Mr Mark O'Neill

Respondent: Kata Civils Limited

Heard at: North Shields **On:** 31 August 2018

Before: Employment Judge Hargrove

Representation:

Claimants: Mr S Truscott

Respondent: No appearance by or on behalf of the respondent. Contents of ET3 considered.

JUDGMENT

The judgment of the Employment Tribunal is as follows:

- 1 The claimants' claims of breach of contract in respect of notice pay and of an unlawful deduction from wages are well-founded.
- 2 The respondent is ordered to pay to the claimants the following sums:
 - (1) **Mr S Truscott:**

Notice pay of £3,750 (one month's pay at £45,000 per annum).
Unpaid wages of £3,750 (one month's pay at £45,000 per annum).
 - (2) **Ms Lianne Truscott:**

Notice pay of £1,450 (4 weeks x 25 hours x £14.50 per hour).
Unpaid wages of £72.50 (one day's pay).
 - (3) **Mr Mark O'Neill:**

Notice pay of £3,083.33 (one month's pay at £37,000 per annum).
Unpaid wages at £711.54 (one week's pay).

- 3 It is noted and recorded that the above sums are gross sums before deductions of tax and national insurance, the respondent having failed to make any payments to the claimants or to the Inland Revenue by way of PAYE.

REASONS

- 1 The Tribunal heard oral evidence from Mr Truscott, who also produced written but unsigned contracts provided to them by Mr Paul Coates, the Managing Director of the respondent, which was incorporated on 24 October 2017. I am satisfied that these documents were genuine and reflected the terms of employment agreed by Mr Coates, as Managing Director with the claimants.
- 2 Mr Truscott was employed as Operations Manager on a salary of £45,000 per annum. He worked for the respondent for the month of January 2018. Ms Truscott was employed as Accounts Manager on 25 hours per week at £14.50 per hour. She worked for one day only on 1 February 2018. Mr O'Neill was employed as Quantity Surveyor and worked for one week from 24 January 2018.
- 3 I am satisfied that the claimants were all dismissed on 1 February 2018 when Mr Coates failed to turn up for work and subsequently informed Mr Truscott that the respondent had no money with which to pay the claimants the wages and notice pay due to them.
- 4 Having considered **Sarker v South Tees Hospitals NHS Trust [1997] IRLR page 328** I am satisfied:
- (1) That each claimant was employed by the respondent under a contract of employment.
 - (2) That under the contracts each claimant was entitled to one month's notice pay.
 - (3) That each claimant was dismissed without notice or notice pay.

EMPLOYMENT JUDGE HARGROVE

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON
1 September 2018**

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