



EMPLOYMENT TRIBUNALS

Claimant: Mr William Canavan

Respondent: The Bus Company Limited

Heard at: London South **On: 29 June 2018**

Before: Employment Judge Fowell

Representation:

Claimant: In Person

Respondent: Mr S Ayub, Solicitor

JUDGMENT

1. The claimant is entitled to a statutory redundancy payment, notice pay and holiday pay in the total sum of £7,438.72.

REASONS

Background

1. By a claim form presented on 5 December 2017 Mr Canavan brought claims for a redundancy payment, notice pay, holiday pay and other arrears following the termination of his employment, which he said occurred on 31 July 2017. According to the same form it began on 9 September 2008, meaning that he had completed eight years employment.
2. The named respondent, Mr Darren Chapman, submitted a response stating that the correct respondent should be the employer, which is The Bus Club Ltd, and that this company has ceased trading in August 2017. Since then they had been issued with a winding up petition which is due to be heard on 3 July 2018. Insolvency practitioners, Herron Fisher, had been instructed and were in the process of submitting a Creditors Voluntary Arrangement (CVA) to the court.
3. Mr Chapman was represented at the hearing but I was not provided with any witness statements and there was minimal documentation. This comprised the P60s for Mr Canavan, most recent of which is for the tax year to 5 April 2017, giving a total figure of £19,634.91 (or £19,635 ignoring

pence).

4. As a preliminary issue, the P60s all showed the name of the employer as the Bus Company Limited, and Mr Canavan conceded that this was his employer. I therefore order that the Bus Company Ltd is substituted for Mr Darren Chapman as the respondent to this claim.
5. Having heard representations from both parties I make the following findings and conclusions.
6. I accept the dates of employment provided by Mr Cameron. They are marginally different from those provided by the respondent (which simply said November 2008 to August 2017) and in either event he had completed eight years' service.
7. The main issue was over the circumstances of the termination of the employment. There was some suggestion in the response form that Mr Cameron had resigned or walked of the job. In the event however it was conceded that his employment came to an end when the company ceased trading. Mr Chapman therefore conceded that Mr Canavan was entitled to his notice pay, holiday pay and statutory redundancy payment.
8. That being the case it only remained to calculate the necessary figures. These are as follows:
9. Mr Canavan had completed five years' service over the age of 41. For each of these years he is entitled to one and a half weeks' pay, amounting to 7.5 weeks' in total. This must be added the three years' service before the age of 41, so the statutory redundancy payment has to be calculated on the basis of 10.5 weeks pay.
10. The most reliable evidence of the level of earnings was the P60 for 2016/17, although this was somewhat lower than the previous year. According to that figure, the weekly earnings were £377.60 and hence the statutory redundancy payment is **£3,964.80**
11. It was agreed that notice pay be calculated in accordance with the statutory minimum of eight weeks' pay.
12. Although the response form argued that Mr Canavan had obtained other employment within the notice period, it is well established that the employer is not entitled to a reduction in the notice pay due on that account.
13. Applying the same weekly rate over 8 weeks, this amounts to **£3,020.80**
14. It was agreed between the parties that there were six days' holidays outstanding at the date of termination. The appropriate daily rate is £77.52, and so the outstanding holiday pay is **£453.12**
15. There was no evidence of any further arrears and so no compensation is awarded under that heading.
16. The total compensation therefore due is as follows

Statutory redundancy payment £3,964.80

Notice pay	£3,020.80
Holiday pay	£453.12
<u>Total</u>	<u>£7,438.72</u>

Employment Judge Fowell
Date 29 June 2018