



# EMPLOYMENT TRIBUNALS

**Claimant:** Marc Coombs

**Respondent:** (1) Paul Williams  
(2) Janet Williams

**Heard at:** Carmarthen **On:** 21st May 2018

**Before:** Employment Judge Howden-Evans

## **Representation:**

**Claimant:** In Person

**Respondents:** (1) No attendance  
(2) No attendance

## **JUDGMENT**

Having heard evidence on oath from the claimant, the employment judge's decision is:

1. The claimant was unfairly constructively dismissed by reason of redundancy and is entitled to compensation for unfair dismissal of £17,799.
2. The respondents have made unauthorised deductions from the claimant's wages and are jointly and severally liable to pay the claimant the sum of £6,354.55.
3. The respondents have failed to pay the claimant's holiday entitlement and are ordered to pay the claimant the sum of £240.
4. In total the respondents are jointly and severally liable to pay the claimant the sum of £24,393.55.

## REASONS

- 1.The respondents have not filed a response to these proceedings; neither have they attended this hearing. I am satisfied that the claim form and notice of this hearing have been properly served on the respondents. Rule 47 Employment Tribunal Rules 2013 provide I can proceed with the hearing in the absence of a party.
- 2.The claimant commenced employment as a carpenter with Acorn Home Repairs (Wales) Limited on 30th July 2004. The first respondent was the sole director of that company. The second respondent “ran” the business with the first respondent.
- 3.Unbeknown to the claimant, Acorn Home Repairs (Wales) Limited was dissolved in August 2016; the first and second respondent continued to operate their business after that date and continued to employ the claimant who continued to work for them until 19th September 2017. In effect, the claimant was TUPE transferred to the first and second respondents. When his employment ceased on 19th September 2017, he had 13 years’ continuous service.
- 4.The claimant was constructively dismissed by the first and second respondents. By 19th September 2017, on a number of occasions his wages had not been paid on time (cheques drawn against the account of P R & J K Williams had been returned marked “refer to drawer”). In addition, the claimant discovered the respondents had not paid his tax and national insurance since 24th July 2015. These were fundamental breaches of his employment contract; the claimant was entitled to regard himself as having been dismissed.
- 5.Since 24th July 2015, the respondents have deducted national insurance and PAYE from the claimant’s wages, but have not paid these monies to HMRC. This means the claimant is personally liable to pay this tax / national insurance to HMRC. These deductions are unauthorised deductions from the claimant’s wages as they would only be deductions authorised by statute if they had been properly paid to HMRC.
- 6.The claimant was only paid £158.95 for the week ending 14<sup>th</sup> September 2017; he should have received £239.12, so is owed £80.17 for that week. He is also owed £87.50 for work he undertook on 18<sup>th</sup> and 19<sup>th</sup> September 2017.
- 7.At the time of his dismissal, the claimant had 4 days’ accrued holiday outstanding.
- 8.The claimant was able to find alternative employment on 1<sup>st</sup> May 2018, albeit this is part-time work for which he receives £190 per week.

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Employment Judge Howden-Evans

Date: 21<sup>st</sup> May 2018

JUDGMENT SENT TO THE PARTIES ON

.....18 June 2018.....

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FOR THE TRIBUNAL OFFICE

<b>Calculations</b>	
<b>1. Details</b>	
Date of birth of claimant	23/10/1979
Date started employment	30/07/2004
Effective Date of Termination	19/09/2017
Period of continuous service (years)	13
Age at Effective Date of Termination	37
Date new equivalent full-time job expected to start	21/11/2018
Remedy hearing date	21/05/2018
Net weekly pay at Effective Date of Termination	£300
Gross weekly pay at Effective Date of Termination	£350
Gross annual pay at Effective Date of Termination	£18,200
<b>2. Unfair Dismissal Basic award / Redundancy Payment</b>	
Number of qualifying weeks (13) x gross weekly pay (£350.00)	
<b>Total basic award / redundancy payment</b>	<b>£4,550</b>
<b>3. Unfair Dismissal Compensatory award (immediate loss)</b>	
34.9 weeks x net weekly pay (£300)	£10,470
Plus loss of statutory rights	£489
Less sums obtained through alternative employment	
01/05/2018 to 21/05/2018: 3 weeks x £190	(£570)
<b>Total compensation (immediate loss)</b>	<b>£10,389</b>

<b>4. Unfair Dismissal Compensatory award (future loss)</b>	
26 weeks x net weekly pay (£300)	£7,800
Less sums expected to be obtained through alternative employment 26 weeks x £190	£4,940
<b>Total compensation (future loss)</b>	<b>£2,860</b>
<b>5. Summary: Unfair Dismissal totals</b>	
Basic award	£4,550.00
Compensation award including statutory rights	£13,249
<b>Total awarded for Unfair Dismissal</b>	<b>£17,799</b>
<b>6. Unauthorised Deductions from Wages</b>	
Unpaid wages (see para 6 above)	£167.67
Unpaid National Insurance: 112 weeks x £23.64	£2,647.68
Unpaid PAYE tax: 112 weeks x £31.60	£3,539.20
<b>Total unauthorised deductions from wages:</b>	<b>£6,354.55</b>
<b>7. Holiday pay</b>	
4 days x £60 net daily pay	<b>£240</b>
If the full amount of this award is paid before 2 <sup>nd</sup> July 2018, no interest will be payable. If the award is not paid before 2 <sup>nd</sup> July 2018, interest at a rate of 8% per annum (5.3p per day) will be payable from 2 <sup>nd</sup> July 2018 until payment. (see the Employment Tribunal (Interest) Order 1990).	