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EMPLOYMENT TRIBUNALS

Claimant: Mr A Jones
Respondent: Dangate Ltd T/a Pass & Co
Heard at: East London Hearing Centre
On: Monday 17th June 2019
Before: Employment Judge Ross

Representation

Claimant: In Person
Respondent: Not attendance

JUDGMENT

The judgment of the Tribunal is that:-

1. The Tribunal having refused to accept the proposed ET3 filed by the Respondent, there shall be judgment for the Claimant on the issue of liability.
2. The complaints of breach of contract and unpaid holiday pay are upheld.
3. The Claimant is entitled to a redundancy payment.
4. The Respondent shall pay the Claimant £5,758.60 assessed as follows:
 - 4.1. a redundancy payment in the sum of £3,945;
 - 4.2. damages for breach of contract for notice pay in the sum of £1,263.60;
 - 4.3. unpaid holiday pay in the sum of £550.

REASONS

1 The Respondent did not attend having indicated in an email to the Employment Tribunal that it was not likely to attend and would not be represented. I entered judgment on liability because the ET3 form had not been accepted.

2 The Claimant attended today. I took evidence from him proving the amount due to him. I accepted the evidence of the Claimant and found the sums due to him as claimed, save that the notice pay claimed was reduced to reflect the fact that it should be paid net rather than gross, because it is damages for breach of contract.

3 Going through the brief history of the matter, the Claimant confirmed in evidence the facts and matter set out in his Claim Form. He has worked continuously for the Respondent company since 1 May 1997. He attended work on the 8 January 2019 which was his last day of employment. The Respondent, through Mr Lester, told him that he could no longer afford to employ the Claimant and that all other staff would be made redundant. The Respondent said that the company was all but insolvent but that he hoped to trade his way out of that position.

4 In my judgment on those facts, the statutory definition within section 139(1) Employment Rights Act 1996 is satisfied and the Claimant was made redundant on 8 January 2019.

5 Clearly, the Claimant was not given any notice prior to dismissal. He is entitled to an award of damages to reflect the notice pay to which he was entitled, which I have assessed as 12 weeks net pay.

6 The Claimant is also entitled to payment for holiday pay accrued but untaken in 2019.

7 By way of further reasons, in response to the email sent to the Tribunal by Mr. Jones after the hearing, I am well aware that the figure for redundancy should be calculated on the basis of gross weekly pay. This is how I calculated that sum.

Employment Judge Ross

21 June 2019