



EMPLOYMENT TRIBUNALS

Claimant: Mr Graham Davies

Respondent: APEL Global Limited

Heard at: Cardiff

On: 29th August 2018

Before: Employment Judge Howden-Evans (sitting alone)

Representation

Claimant: In person

Respondent: No attendance

JUDGMENT

The employment judge's decision is:

1. The respondent has dismissed Mr Davies on grounds of redundancy. Mr Davies is entitled to a statutory redundancy payment from the respondent of **£2,934.00** as calculated at the end of this judgment.
2. The respondent has dismissed Mr Davies with insufficient notice. Mr Davies is entitled to **£2,933.76** compensation for breach of contract for lack of notice (notice pay) as calculated at the end of this judgment.
3. This means the total amount owed to Mr Davies by APEL Global Limited is **£5,867.76**. In the event of this debt not being paid within 14 days of this judgment, interest will accrue on this debt, as calculated at the end of this judgment.
4. As the respondent has reportedly ceased trading, it is likely Mr Davies will face difficulty recovering this debt from the respondent. If Mr Davies is unable to recover this debt from the respondent, he is referred to section 166(1)a Employment Rights Act 1996, which explains his right to claim payment from the National Insurance Fund.

5. The Employment Protection (Recoupment of Jobseekers Allowance & Income Support) Regulations 1996 do not apply to this award.

REASONS

1. Whilst reasons for this judgment were provided orally at the hearing, the employment judge is mindful that the respondent was not present at the hearing, so has provided written reasons, for their benefit.
2. The respondent had until 25th July 2018 to present an ET3 Response to these proceedings. They have not done so. Proceedings have correctly been served on the respondent's registered office. I have no doubt that the respondent company is fully aware of these proceedings. On 8th August 2018, the tribunal received an email from Andrew Simons, director of G2A Limited indicating that the respondent company has ceased trading and that G2A Limited is now trading from this address. Having checked Companies House records, it appears that Matthew John Conway and John Francis O'Boyle are directors of both the respondent company and G2A Limited.
3. The respondent company, APEL Global Limited, is not affected by a voluntary arrangement, administration order, administrative receivership, compulsory or voluntary liquidation. At the time of this hearing and judgment, the respondent company has not been dissolved and so the claimant is able to proceed with his claim.
4. Having heard evidence from Mr Davies, I am satisfied the respondent company has not paid Mr Davies the notice pay it agreed to pay him. Mr Davies has always been entitled to 4 week's statutory notice (pursuant to s86 Employment Rights Act 1996). In correspondence, Andrew Simons (Operations Manager of APEL Global Limited) agreed to double the claimant's notice pay. Mr Davies has only received 2 weeks' pay.
5. Mr Davies, an auto electrician, was continuously employed by the respondent, during the period 5th February 2013 to 13th October 2017. He was 55 years old at the time of his dismissal, by which time he had 4 complete years' service with the respondent. His salary before tax was £624 per week; his normal take home pay was £488.96 per week.
6. It is clear the circumstances of Mr Davies's dismissal amount to a dismissal by reason of redundancy (see Section 139 (1)a(i) Employment Rights Act 1996). Mr Davies has not received any redundancy payment from the respondent.

Employment Judge Howden-Evans

Date 29th August 2018

JUDGMENT SENT TO THE PARTIES ON

3 September 2018

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Calculations

Redundancy Payment

(calculated in accordance with s162 Employment Rights Act 1996)

Mr Davies's weekly gross pay = £624
(however compensation is limited to £489 per week by the current statutory cap)

1½ week's gross pay for each of the 4 years in which Mr Davies was aged 41 and over:

£489 x 1½ x 4 = **£2,934.00**

Notice Pay

Mr Davies's net weekly pay = £488.96

6 weeks x £488.96 = **£2,933.76**

Total amount owed to Mr Davies = £5,867.76

Interest will accrue at a rate of 8% per annum on any amount of this award that remains unpaid 14 days after the date of this judgment. (See Article 3 (1) Employment Tribunals (Interest) Order 1990)