



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4104811/2019

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Employment Judge: M A Macleod

Jamie Friel

**Claimant
In Person**

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Andrew Winning

**First Respondent
Not Present and
Not Represented**

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Winworks Group Limited

**Second Respondent
Not Present and
Not Represented**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal is that the claimant's claims, being
20 undefended, succeed, and that the respondents are ordered to pay to the claimant
the sum of **Two Thousand Eight Hundred and Fifty Pounds and Thirty Pence
(£2,850.30)**.

REASONS

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1. The claimant presented a claim to the Employment Tribunal on 12 April 2019, in which he complained that the first respondent had unlawfully deprived him of wages and holiday pay.

2. No response was received from the first respondent to the claim.

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3. The claimant then made application to add the second respondent to the proceedings, an application which was granted by Order of the Tribunal on 25 April 2019. The claim was served upon the second respondent, but again no response was received.

4. A hearing was fixed to take place on 28 June 2019 in order to determine the merits of the case. The claimant appeared on his own behalf, and

presented a small bundle of documents. Neither respondent attended or were represented at the hearing.

5. The claim being undefended succeeds. The claimant gave brief evidence to set out his position on his claim.

5 6. On the basis of the evidence and the information provided, the Tribunal is able to conclude that the respondents are ordered to pay the claimant the following sums:

10 (i) £1,730.77 in respect of unpaid wages from 1 to 13 March 2019, the date of termination of his employment. The claimant was paid in full up to the end of February 2019 but received no pay for the 9 working days he worked up to the termination of his employment. As a result, the claimant is entitled to 9 days' pay, calculated (gross) by dividing £50,000, his annual salary, by 260 (the number of working days in the year), and multiplying by 9.

15 (ii) £192.31 in respect of pay for annual leave accrued but untaken as at the date of termination of his employment. The claimant took all but one day of his pro rata holiday entitlement for the holiday year which began in January 2019. As a result, he is entitled to receive £192.31, namely one day's gross pay.

20 (iii) £927.22 in respect of a tax rebate remitted to the respondents but not paid on to him. In support of this head of claim, the claimant provided a calculation of the payments made to him (gross) in his pay, based on payslips, from May 2018 until March 2019, which amounted to £39,166.67; by adding the sums represented by deductions for PAYE on
25 those same payslips, the claimant noted a total of £6,767.06. Referring then to his P45, the claimant noted that the "total pay in this employment" was recorded as £39,166.67, but that his total tax was noted as £5,839.84. As a result, the claimant claims that he is owed £927.22 by the respondents, being the difference between the sums
30 deducted through his pay and the amount shown on his P45. I am

persuaded that it is in the interests of justice that this payment should be made by the respondents to the claimant.

- 5 7. Accordingly, the claimant's claims succeed, and the respondents are ordered to pay to the claimant the total sum of £2,850.30 by way of unlawful deductions from wages.

10 **Employment Judge: Murdo Macleod**
Date of Judgment: 28 June 2019
Entered into the Register: 01 July 2018
And Copied to Parties