



## EMPLOYMENT TRIBUNALS

**Mr Marek Mundzik**  
**Claimant**

**Palladian Development Ltd**  
**Respondent**

v

## PRELIMINARY HEARING

**Heard at: London Central**

**On: 27 June 2019**

**Before: Employment Judge Paul Stewart**

### Appearances

**For the Claimant: Ms Anna Kondracka, the Claimant's wife**

**For the Respondent: Did not appear and was not represented**

## JUDGMENT

The Respondent is ordered to pay to the Claimant within 28 days the sum of £11,016.96 that being the total of the net sums outstanding in respect of notice pay, holiday pay and wages that the Claimant was owed as at 4 December 2018.

## REASONS

1. Notice of this Hearing was provided to the parties on 25 March 2019 in the same letter that gave the Respondent notice of the claim. The Respondent was required to file its response to the claim by 22 April 2019.
2. On 25 April 2019, the Employment Tribunal wrote to the Respondent informing it that it appeared that no response had been received and inviting a response by 2 May 2019 lest a default judgment be issued against it.
3. The Claimant's representative, Ms Kondracka, received a copy of that letter and emailed the Employment Tribunal with information that the Respondent's address appeared to have changed since the filing of the claim. She provided the Registered Office Address she had obtained from Companies House of 27 Old Gloucester Street, London, England, WC1N 3AX. In consequence, a letter was sent by the Employment Tribunal to the Respondent on 9 May 2019 informing it that the time for objecting to a default judgment is extended to 16 May 2019.
4. On 14 May 2019, the Respondent filed a response with the Employment Tribunal. No application for an extension of time had been made before the filing of the response.
5. On 14 June 2019, the Employment Tribunal wrote to the Respondent noting the arrival of the ET3 that was due to be filed on or before 22 April 2019 but was filed on 14 May. The Respondent was informed that Employment Judge Wade may

accept the late filing on the basis that the Respondent explains the delay by 21 June 2019 and the parties were reminded that the hearing was listed for today.

6. On 21 June 2019, Mr Simon Wedgewood emailed the Employment Tribunal with the message that he was emailing for two reasons:

1. I have no confirmation if this is proceeding despite the claimant not meeting the deadlines. If it has been granted, I would like the opportunity to this to dispute the grounds for the case proceeding with the strict timelines have not been met by the claimant.
2. In addition, if it is proceeding, I need a significant extension of time. I run a small business and many responsibilities outside of this. I request an extension of eight weeks.

7. In response, the Employment Tribunal wrote to the parties on 26 June 2019 directing that:

... the hearing tomorrow will proceed as a case management preliminary hearing as there are clearly issues which means that the case is no ready for hearing. The issues to be decided include:

1. To consider an application with the respondent has so far failed to make for leave to file the ET3 out of time. The respondent will be expected to explain the delay.
2. To make directions for preparation for the hearing. The respondent states that the claimant has delayed.
3. To list the hearing.

8. The Respondent has not attended to make the application for leave to file the ET3 out of time that, as the letter of 26 June observed, it had so far failed to make and to explain the delay in filing the ET3 with the Employment Tribunal. Therefore, I reject the response that was filed out of time on 14 May 2019.

9. I then have regard to Rule 21 wherein it is provided that, if a response that has been received has been rejected, I should decide on the available material whether a determination can properly be made of the claim. In my view it can be. The Claimant is present and has brought copies of a pay slip, his contract of employment, the email of 4 December 2018 sent to him by Mr Simon Wedgewood and other documents. I heard evidence from him and am satisfied of the following facts.

10. The Claimant worked for an unspecified time for the Respondent on a self-employment basis before, on 18 October 2017, becoming an employee. His contract of employment specified that date to be the start date of his duties as "Working Site Foreman" at a salary of £40,000 gross per annum which, according to the Employment Tribunal Remedies Handbook 2018-19, after tax and national insurance is deducted, comes to £30,580.88 net.

11. The Claimant was dismissed on 4 December 2018 by email having worked on 3 December but been sent home early. The email provided formal notice to the Claimant that the Respondent company will be dissolved because its Bank was no longer willing to support it. In the email, Mr Wedgewood claimed that the company had no funds left to pay wages on an ongoing basis. He asserted that:

... we will of course pay for last month's wages and replace the tools lost. ...

However, be aware that due to accusations of drinking alcohol on-site & drunken behavior which we have received in writing from 3rd parties we will not be looking to make any further payments on top of the last months wages.

12. The Claimant not paid his wages for the last month. He was not paid for the one day he worked in December, that being 3 December 2018. He was dismissed

without notice when his contract entitled him to 3 months' notice. In addition, the contract entitled him to 28 days holiday in the holiday period starting 1 March of each year. When dismissed, he was entitled to 6 days' holiday which had not been taken.

13. In consequence, his claim for net sums due is for:

3 Months' Notice Pay	£ 7,645.22
1 day's pay for 3 December 2018	£ 117.62
6 days' holiday pay	£ 705.71
Total Claimed	<u>£ 11,016.96</u>

14. Ms Kondracka brought to my attention the fact that the Companies House website lists the status of the Respondent company as "Active", something which does not support the assertion made by Mr Wedgewood on 4 December 2018 that the company would be dissolved.
15. The Respondent has failed to appear at this Hearing, notice of which was given to the parties on 25 March 2019. Therefore, there is no evidence in support of the assertion made by Mr Wedgewood in his email dismissing the Claimant that the Respondent had received accusations from unspecified third parties of drinking on-site & drunken behaviour on the part of the Claimant.
16. And, further, I see no basis for Mr Wedgewood's assertion in his email to the Employment Tribunal of 21 June 2019 that the Claimant has failed to comply with the timelines required of him.
17. I explained to the Claimant that the Employment Tribunal does not have jurisdiction to award him compensation for the loss of his tools, a matter which Mr Simon Wedgewood on 4 December 2018 indicated was a loss incurred by the Claimant for which the Respondent was prepared to compensate him.
18. I, therefore, in concert with Ms Kondracka worked out the net sums to which the Claimant was entitled.

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**Employment Judge Paul Stewart**  
27 June 2019

Sent to the parties on  
11<sup>th</sup> July 2019  
For the Tribunal:

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