



EMPLOYMENT TRIBUNALS

Claimant: Miss C Konarski

Respondent: Memorabilia Framers Limited

Heard at: Lincoln

On: Monday 15 July 2019

Before: Employment Judge Hutchinson (sitting alone)

Representatives

Claimant: In Person

Respondent: No Appearance

JUDGMENT

The Employment Judge gave judgment as follows: -

1. The Respondent has made an unauthorised deduction from the Claimant's wages and is ordered to pay the Claimant the gross sum of £1,680.40.
2. The Claimant was dismissed in breach of contract in respect of notice and the Respondent is ordered to pay damages to the Claimant in the sum of £287.31.
3. The Respondent has failed to pay the Claimant's holiday entitlement and is ordered to pay the Claimant the sum of £804.47.
4. The Respondent has failed to provide a contract of employment to the Claimant and is ordered to pay to the Claimant the sum of £653.54.

REASONS

Background

1. The Claimant presented her claim to the Tribunal on 7 February 2019. She said that she had been employed by the Respondent as a Graphic Designer between 5 April 2018 and her dismissal on 3 December 2018. She was paid £1,416 per month gross and £1,245 per month net.
2. She claims from the Tribunal the following: -
 - 2.1 She has suffered an unlawful deduction of wages relating to none payment of pay and pension contributions.
 - 2.2 She was dismissed without notice and is entitled to one week's notice pay.
 - 2.3 She has not been paid her holiday entitlement and is entitled to holiday pay.

- 2.4 The Respondents did not provide her with a statement of initial employment particulars in accordance with Section 1 of the Employment Rights Act 1996 and that she should be paid compensation in respect of that.
3. The Respondents filed a response on 6 June 2019 and said that they disputed the claim saying:

“We have made attempts to agree a figure which we have not been able to conclude. This is because the Claimant was obstructive and did not supply the log in details of the computer, which we had to recover by spending a lot of time and money on wiping the computer and reloading it.”

The Hearing Today

4. The Claimant did attend the hearing to give evidence and produce copies of her payslips. The Respondent did not attend although I have seen an e-mail from Mr Bean dated 8 July 2019 and I have taken that into account in reaching my conclusion.
5. At the hearing today, I heard evidence from the Claimant and was satisfied that the evidence that she gave to me was truthful. I have no reason to doubt anything that she says.

Facts

6. The Claimant commenced work for the Respondent on 5 April 2018. She worked as a Graphic Designer for 40 hours per week and earned gross pay of £1,416 per month. Her net pay was £1,245 per month. The weekly figures are as follows: -

- Gross £326.77
- Net £287.31

7. The Claimant had been on holiday for 5 days when she returned to work on 3 December 2018. Mr Bean told her that he could not afford to keep her in employment any longer and that he was dismissing her with immediate effect.

8. He had not paid the Claimant for November and he had not paid her for the first 3 days in December.

9. He did not pay notice pay.

10. Whilst the Claimant was paid for bank holidays her other holidays went unpaid. By 3 December 2018 she had accrued 20 days holiday. She was paid for 6 bank holidays and therefore is due a balance of 14 days' holiday pay.

11. At no time was she provided with a contract of employment or statement of terms and conditions of employment.

12. From April 2018 the pension contributions that the Respondent should have paid were 2% of her earnings. He did not make any payment as he was obliged to do. During the 8-month period the Claimant had earned £11,333.33.

My Conclusions

Wages

13. It is not in dispute that the Claimant was not paid her wages for November or indeed the last 3 days that she worked for the Respondent until 3 December. The Respondent owes the Claimant net £1,245 for November and £120.48 for December. This totals £1,365.48.

14. The Respondent should have paid a 2% contribution on her gross earnings of £11,333.33 which is a total of £226.67.

15. The Claimant because of the non payment of wages suffered bank charges of £88.25.

16. The total amount awarded for the unlawful deduction of wages is therefore a net figure of £1,680.40.

Notice Pay

17. The Claimant was dismissed without notice and the Respondent should have paid her one week's notice pay which is a statutory minimum. The Claimant's net pay was £287.31 and therefore the sum due to the Claimant is that figure.

Holiday Pay

18. I am satisfied the Claimant was paid for bank holidays but no other holidays. During her 8 months of employment she accrued 20 days holiday. There were 6 bank holidays in respect of which she was paid and so she is due a further 14 days holiday pay. The net amount due in respect of holiday pay for those 14 days is £804.47.

Contract of Employment

19. Under the provisions of Section 1 of the Employment Rights Act 1996 all employers are required to provide a statement of initial employment particulars. Under Section 38 of the Employment Act 2002 I am empowered to award the Claimant either 2 weeks' pay or if I think it just and equitable to do so increase this to 4 weeks' pay. This is a small employer and the Claimant was only employed for a period of 8 months and I am satisfied that 2 weeks' pay is appropriate. This is calculated at her gross weekly pay of £326.77 making the sum of £653.54 due.

Employment Judge Hutchinson
Date 8 August 2019
JUDGMENT SENT TO THE PARTIES ON
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FOR THE TRIBUNAL OFFICE