

Case Numbers:
3303440/2019; 3303434/2019; 3310852/2019; 3303433/2019; 3335159/2018 and
3303436/2019



EMPLOYMENT TRIBUNALS

Claimant

Respondent

(1) **Ms Yvonne Barton;** v (1) **G and G Wholesale Bakers;**
(2) **Mr Martin Chisholm;** (2) **Bakery Organics (UK) Limited**
(3) **Miss Rachel L Thomas**

Heard at: Cambridge

On: 12 September 2019

Before: Employment Judge K J Palmer

Appearances

For all of the Claimants: All three appeared in person
For the First Respondent: Glyn Maddox, Proprietor
For the Second Respondent: Did not attend and was not represented

JUDGMENT

The Tribunal gives the following Judgment against the Second Respondents, Bakery Organics (UK) Limited:

1. Yvonne Barton – Case numbers: 3303440/2019 and 3303434/2019
 - a. The Tribunal awards the Claimant a Redundancy payment in the sum of £2,772 against the Second Respondent.
 - b. The Tribunal awards the Claimant in the sum of £1,512 in respect of Notice Pay, against the Second Respondent.
 - c. The total award to the Claimant payable by the Second Respondent is £4,284.

2. Martin Chisholm – Case numbers: 3303433/2019 and 3310852/2019
 - a. The Tribunal awards the Claimant a Redundancy payment in the sum of £11, 592 against the Second Respondent.

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- b. The Tribunal awards the Claimant in the sum of £4,800 in respect of Notice Pay, against the Second Respondent.
 - c. The total award to the Claimant payable by the Second Defendant is £16,392.
3. Rachel L Thomas – Case numbers: 3335159/2018 and 3303436/2019
- a. The Tribunal awards the Claimant a Redundancy payment in the sum of £1,764 against the Second Respondent.
 - b. The Tribunal awards the Claimant the sum of £1,512 in respect of Notice Pay, against the Second Respondent.
 - c. The total award to the Claimant payable by the Second Respondent is £3,276.

The above awards are all against the Second Respondent, Bakery Organics (UK) Limited and the grand total of those awards is in the sum of £23,952.

REASONS

1. This matter came before me today as a Full Merits Hearing. The Claimant's had all individually pursued two claims, one against the First Respondent and then subsequently against the Second Respondent. Resulting in there being six separate Tribunal files.
2. The claims were all consolidated pursuant to an Order of Employment Judge Ord dated 20 April 2019. This left three Claimants pursuing claims against two Respondents.
3. The reason for the consolidation was that the claims arose out of the same facts.
4. I had before me the three Claimants and Glyn Maddox and his wife who were both partners in G and G Wholesale Bakers the First Respondent operating for many years in Northamptonshire.
5. The Claimants had all been employed for considerable periods of time. In the case of Yvonne Barton and Martin Chisholm, over 20 years and in the case of Rachel Thomas, 15 years.
6. They had essentially worked for the partnership owned and run by Mr and Mrs Maddox which had traded under the trading name of G and G Wholesale Bakers.

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Mr Maddox explained to me that it was a limited partnership operated by himself and his wife.

7. At some point during that time, G and G Wholesale Bakers started to supply an individual called Martyn Boden and his company Bakery Organics (UK) Limited.
8. Therefore, at that time Martyn Boden and Bakery Organics (UK) Limited were customers of G and G Wholesale Bakers.
9. As I understand it, Martyn Boden operated a number of outlets selling food stuffs and fresh baked goods were supplied to him by the First Respondent.
10. Sadly, in September 2017, Mr Maddox was diagnosed with stage 4 lymphoma and kidney cancer and had immediately to begin chemotherapy and surgery. As a result, he felt that it would be difficult for him to continue to run and manage the business going forward. Accordingly, there ensued discussions between Mr Maddox and Mr Boden about the possibility of Bakery Organics (UK) Limited buying the assets of G and G Bakery and continuing to run the bakery.
11. Mr Maddox handed up to me a document dated 19 December 2017 described as a 'Heads of Agreement' wherein is set out terms regarding the proposed acquisition and asset purchase of G and G Wholesale Bakers. In fact, as I understand it, from the parties before me that, it was in late November that Bakery Organics (UK) Limited took over the running of G and G Wholesale Bakers continuing to trade with the same equipment at the same premises and largely with the same workforce. The three Claimants were told by Martyn Boden that they had transferred from the First Respondent to Bakery Organics (UK) Limited and that the transfer was subject to the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE"). They continued to work for Bakery Organics (UK) Limited from that date going forward and were paid by the Second Respondent.
12. Mr Chisholm, who essentially was the most senior employee was even given a pay rise.
13. All proceeded well until September 2018. There had been an attempt by Mr Boden in July to persuade the Claimants to sign new Contracts of Employment which appeared to suggest that their continuity of employment with their previous employer, the First Respondent, would be lost. They refused to sign. Over the course of the Bank Holiday weekend, 25, 26 and 27 August 2018, Mr Boden closed down the operation at the premises where the First Respondent used to operate and essentially took away all stock and machinery.
14. This left the Claimants as dismissed on 28 August 2018.

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15. They pursued claims for redundancy payment and notice pay. They knew nothing of their dismissal until they attempted to return to work on 28 August 2018.

TUPE

16. Having heard from the Claimants and the First Respondent, it is plain that Bakery Organics (UK) Limited acquired the assets and business of G and G Wholesale Bakers and continued to trade from the same premises from 1 December 2017.
17. At that point there was a transfer under TUPE of the Employment Contracts of the three Claimants. They continued to work for Bakery Organics (UK) Limited, essentially continuing as they had previously done so working for the First Respondent.
18. Their dismissal in August 2018 entitled them to a redundancy payment and notice pay under their Contracts of Employment of 12 weeks each.
19. The liability clearly lies with Bakery Organics (UK) Limited who had purchased the assets of G and G Wholesale Bakers some ten months earlier.
20. Accordingly, I make the following awards in respect of the three Claimants against the Second Respondent.

21. Yvonne Barton

- Gross weekly pay £126.00
- Net weekly pay £126.00
- At the date of dismissal, she was 45 years old.
- At the date of dismissal, she had completed 21 years' service.
- Redundancy payment calculation $\text{£}126 \times 22 \text{ weeks} = \text{£}2,772$
- Notice Pay calculation $\text{£}126 \times 12 \text{ weeks} = \text{£}1,512$
- Total $\text{£}4,284$

22. Martin Chisholm

- Gross weekly pay £504.00
- Net weekly pay £400.00
- At the date of dismissal, he was 47 years old.
- At the date of dismissal, he had completed 20 years' service.
- Redundancy payment calculation $\text{£}504 \times 23 \text{ weeks} = \text{£}11,592$
- Notice pay calculation $\text{£}400 \times 12 \text{ weeks} = \text{£}4,800$
- Total $\text{£}16,392$

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23. Rachel L Thomas

- Gross weekly pay £126.00
- Net weekly pay £126.00
- At the date of dismissal, she was 35 years old.
- At the date of dismissal, she had completed 15 years' service.
- Redundancy payment calculation £126 x 14 weeks = £1,764
- Notice pay calculation £126 x 12 weeks = £1,512
- Total £3,276

24. The total payable to all three Claimants by the Second Respondent, Bakery Organics (UK) Limited is £23,952.

25. The Tribunal has been informed that the Second Respondent has been dissolved and is insolvent.

Employment Judge K J Palmer

Date: 25 September 2019

11 October 2019

Sent to the parties on:

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For the Tribunal Office