



THE EMPLOYMENT TRIBUNALS

Claimant

Mr D Gallagher

Respondent

Alpha Security Group Ltd

JUDGMENT

Employment Tribunals Rules of Procedure 2013 –Rule 21

**MADE AT NORTH SHIELDS
EMPLOYMENT JUDGE GARNON**

ON 20 AUGUST 2019

The Judgment of the Tribunal is:

1. The claim of unfair dismissal is well founded. I award compensation of **£14045.29** being a basic award of £9497.15 and a compensatory award of £4548.14. The Recoupment Regulations do not apply.

2. The claim of unlawful deduction of wages is well founded. I order the respondent to repay of **£ 2166** gross of tax and National Insurance (NI).

3. The claim for compensation for untaken annual leave is well founded. I order the respondent to pay compensation of **£ 798** gross of tax and NI.

4. I increase the awards under s 38 of the Employment Act 2002 by four weeks pay being **£ 1999.40**.

5. The total payable is £19008.69. The hearing listed for 23 October 2019 is vacated.

REASONS (bold print is my emphasis)

1. On 28 June 2019 the claim was presented . It was served on 3 July . A response was due by 31 July 2019 but none was received. An Employment Judge is required by rule 21 of the Employment Tribunals Rules of Procedure 2013 to decide on the available material whether a determination can be made and , if so, obliged to issue a judgment which may determine liability only or liability and remedy. I declined to make a rule 21 judgment until I had from the claimant's representative full details of the losses claimed . These were provided on 19 August. I now have in the claim form and that information sufficient to enable me to find the claims proved on a balance of probability and determine remedy .

2. The law of unlawful deduction of wages is in Part 2 of the Employment Rights Act 1996 ("the Act").The law of unfair dismissal is in Part X. The Working Time Regulations 1998 say where a worker's employment is terminated during the course

of his leave year, and on the date on which the termination takes effect the proportion he has taken of the leave to which he is entitled in the leave year under regulation 13(1) differs from the proportion of the leave year which has expired. his employer shall make him a payment in lieu of untaken leave . Section 38 of the Employment Act 2002 empowers me to increase awards if the employer has not when the proceeding commenced complied with s 1 of the Act

3. A limited liability company is an association of one or more human beings registered at Companies House. It is a legal “person” in its own right. A Companies House search on 6 August showed it as the address to which notice of the claim was sent . Each company has a number, in this case 10327055. Today I performed another search and found the respondent changed its name on 12 August to “ BM Logistics Management Ltd “. It is still shown on a Companies House Search as active and at the same address.

**T M Garnon EMPLOYMENT JUDGE
JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON 20 AUGUST 2019**