



# THE EMPLOYMENT TRIBUNALS

**Claimant**

Mr Peter Kearney

**Respondent**

Aedis Regulatory Services Ltd

**JUDGMENT (Liability and Remedy)**  
**Empolymnt Tribunals Rules of Procedure 2013 –Rule 21**

1. The claimant is not entitled to a redundancy payment.
2. The claim of unlawful deduction of wages is well founded . I order the respondent to repay to the claimant £6290.32 gross of tax and National Insurance ( NI ).
3. The claim of breach of contract is not well founded .
4. The claim for compensation for untaken annual leave is well founded. I order the respondent to pay compensation gross of tax and NI in the sum of £1903.83.
5. The Hearing listed for 1<sup>st</sup> October 2019 is cancelled..

**REASONS**

1. The claim is for a redundancy payment, breach of contract (notice pay), unpaid wages and compensation for untaken annual leave. It was presented to the Tribunal on 22 July 2019 and was served on 1 August 2019. A response was due by 29 August but none was received. I am 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 and remedy. I have in the claim form and further information provided in response to a letter from the Tribunal sufficient to enable me to find two claims proved on balance of probability and determine sums to be awarded.
2. A Companies House search shows the respondent entered voluntary liquidation on 15 August 2019. A copy letter provided by the claimant shows the respondent dismissed him by letter of 17 June giving him his contractual notice to expire on 21 July which he was not required to work . He was not paid his June or July wages.
3. The law relating to redundancy payments is in Part XI of the Employment Rights Act 1996 ( the Act ). A claimant must have two years continuous employment which this claimant does not, so that claim fails.

4. The common law provides a contract of employment may be brought to an end by reasonable notice. Dismissal without such notice is termed "wrongful". Damages are the amount of pay due during the notice period (see Addis v The Gramophone Company). If a person is dismissed without the notice to which he is entitled, his claim is for breach of contract, but if he is given notice and not required to come to work during the notice period (commonly called "garden leave") his pay during that period is wages, see Delaney-v-Staples. That was the situation. His gross wages were £3750 per month. The law relating to unlawful deduction of wages is in Part 2 of the Act. His pay for June should have been £3750 and for 21 days of July £ 2540.32.

5. The Working Time Regulations 1998 say in Regulation 14 where a worker's employment is terminated during a leave year, and on the date termination takes effect the proportion he has taken of the leave to which he is entitled in the leave year differs from the proportion of the leave year which has expired, his employer shall make a payment in lieu of untaken leave. The claimant states he is entitled to 11 days untaken annual leave which is 2.2 weeks pay. That comes to £1903.83

6. The claimant has recovered £ 2527.28 from the Secretary of State under Part 12 of the Act. This is a net amount. Part 12 limits what the claimant can recover and though there appears to be a considerable difference between the total of this judgment and the sum paid by the Secretary of State that is probably due to the limits and the effect of taxation.

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**T M Garnon EMPLOYMENT JUDGE**  
**SIGNED BY EMPLOYMENT JUDGE ON 12 September 2019**