



EMPLOYMENT TRIBUNALS

Claimant: Mrs T Hall
Respondent: Mini Treasures UK Limited
Heard at: Ashford
On: 12 September 2019
Before: Employment Judge Pritchard

Representation

Claimant: In person, assisted by her husband Mr S Hall
Respondent: No appearance

JUDGMENT

Judgment as to liability having been entered for the Claimant on 28 August 2019 under Rule 21 of the Employment Tribunals Rules of Procedure 2013

Judgment as to remedy is now entered as follows:

1. The Respondent is ordered to pay to the Claimant compensation in respect of her claim for unpaid wages in the sum of: **£ 1,273.00**
2. The Respondent is ordered to pay compensation to the Claimant in respect of her unfair dismissal claim as follows:

Basic Award

6 x £79.04 = £474.24

Compensatory award

Loss of wages £ nil
Loss of statutory rights £350.00

Total award for unfair dismissal **£ 824.24**

3. The Respondent failed to provide that Claimant with a written statement of employment particulars compliant with sections 1 and/or 4 of the Employment Rights Act 1996 and the Respondent is ordered to pay to the Claimant two weeks' wages in the sum of: **£ 158.08**

The total award is **£ 2,255.32**

REASONS

1. By way of an ET1 claim form presented on 8 July 2018, the Claimant claimed she had been constructively unfairly dismissed and that she had suffered unlawful deductions from her wages. The Respondent failed to present a response within the statutory time limit. In fact, although it is clear that the Respondent had received notification of the claim, the Respondent failed to present a response at any time. Judgment as to liability was accordingly entered for the Claimant on 28 August 2019 under Rule 21.
2. The hearing today addressed the question of remedy (compensation). The Respondent did not attend today's hearing. I caused telephone enquiries to be made of the Respondent and the clerk to the Tribunal attempted to make contact by way of the mobile telephone number held on file. However, there was no reply and the clerk left a message asking the recipient to call back. No call was received. The hearing was listed to commence at 10.00 am but it was not until 12.15 pm that the hearing commenced. I took the view that the hearing should proceed in the Respondent's absence as permitted under Rule 47.
3. I heard evidence from the Claimant on oath. She appeared to be a most credible and honest witness. She adopted as her evidence in chief what she had written in her ET1 claim form at Box 9.2 together with her supplementary attached paper headed "History". I had regard to a number of documents produced by the Claimant during the hearing including her contract of employment.
4. I find as fact that:
 - 4.1. The Claimant commenced employment with the Respondent in January 2014;
 - 4.2. The Respondent failed to pay her the wages she claims in Box 9.2 of her ET1 claim form for the months of January 2018, February 2018 and March 2018;
 - 4.3. She resigned in March 2018 giving four weeks' notice. She took the last week of her notice period as holiday. The effective date of termination was one week following 29 March 2018 (her last working day before she took one week's holiday);
 - 4.4. At the time her employment ended, the Claimant's gross weekly wage was £79.04;
 - 4.5. At the time her employment ended, the Claimant was 46 years of age;
 - 4.6. She was immediately able to obtain fresh employment and suffered no loss of wages;
 - 4.7. Although the Respondent provided the Claimant with what she describes as contract of employment, it did not comply with the requirements of

sections 1 and or 4 of the Employment Rights Act 1996. In particular, it did not identify the Claimant's employer as a limited company yet the Claimant was employed by a limited company, namely the Respondent in these proceedings.

Applicable law

5. Section 118 of the Employment Rights Act 1996 provides that where a Tribunal makes an award for unfair dismissal the award shall consist of a basic award and a compensatory award.

Basic Award

6. Section 119 provides that the amount of the basic award shall be calculated by:
 - 6.1. Determining the period, ending with the effective date of termination, during which the employee has been continuously employed;
 - 6.2. Reckoning backwards from the end of that period the number of years employment falling within that period; and
 - 6.3. Allowing the appropriate amount for each of those years of employment
7. The appropriate amount means:
 - 7.1. One and a half weeks' pay for a year of employment in which the employee was not below the age of forty-one,
 - 7.2. One week's pay for a year of employment in which he was not below the age of twenty-two, and
 - 7.3. Half a week's pay for each year of employment not falling within the above subparagraphs

Compensatory award

8. Section 123 provides that the amount of the compensatory award shall be such amount as the Tribunal considers just and equitable in all the circumstances having regard to the loss sustained by the Claimant in consequence of the dismissal in so far as that loss is attributable to the action taken by the employer. The loss shall be taken to include any expenses reasonably incurred by the Claimant in consequence of the dismissal and the loss of any benefit which he might reasonably be expected to have had but for the dismissal.
9. Section 1 of the Employment Rights Act 1996 provides that an employer must provide an employee with a written statement of employment particulars not later than two months after the beginning of employment containing the particulars set out in that section and as further described in sections 2 and 3. Section 4(1) provides that if there is a change in any of the matters particulars of which are required by sections 1 to 3, an employer must provide an employee with a written statement containing particulars of the change at the earliest opportunity and in any event not later than one month after the change.

10. Section 38 of the Employment Act 2002 provides that if in a case to which the proceedings relate (which includes proceedings relating to unfair dismissal) the Tribunal finds in favour of an employee and, when the proceedings were begun the employer was in breach of his duty under section 1(1) or 4(1) of the Employment Rights Act 1996, the Tribunal must, unless there are exceptional circumstances which would make an award or increase unjust or inequitable, award the employee two weeks pay (subject to the cap specified in section 227 of the Employment Rights Act 1995). If the Tribunal considers it just and equitable in all the circumstances, the Tribunal may award four weeks pay (subject to the cap specified in section 227 of the Employment Rights Act 1996).

Deductions from wages

11. Section 24 provides that where a Tribunal finds a complaint that an employer has made an unlawful deduction from wages, it shall order the employer to pay the worker the amount of any deduction made in contravention of section 13 which provides that an employer shall not make such a deduction (save in certain circumstances which are not applicable in this case)

Conclusion

12. Having heard the Claimant's evidence, and upon application of the relevant law, I am satisfied that she is entitled to be awarded the sums set out in the Judgment herein and that the Respondent be ordered to pay such sums to the Claimant.

Employment Judge Pritchard

Date: 12 September 2019