



# EMPLOYMENT TRIBUNALS

BETWEEN

**Claimant**

Mr C Sheldon

**Respondent**

and SA and CV Escreet t/a Simons News  
(no response entered)

## REASONS FOR RULE 21 JUDGMENT

1. On 26 February 2019 the claimant submitted a claim against the respondent in the following terms:

*“As of 22/01/2019 my employer owes me £1945.00.*

*After repeated broken promises of imminent payment of unpaid wages I have nor been paid.*

*I have never got a payslip nor have I got an employment contract. I have been repeatedly promised that it would be done.*

*I am paid cash so there is no record of my payments.”*

2. His claim form said that he had been employed by the respondent as a packer driver since 12 March 2018. His claim form showed that he had complied with the necessary early conciliation formalities in respect of his claim. He had ticked the boxes indicating that his claim was for arrears of pay and holiday pay.
3. The claim was served on the respondent by a letter dated 6 March 2019 from the tribunal, which gave notice that the claim would be heard on 11 December 2019 and required the respondent to submit a response to the claim (if it wished to defend it) by 3 April 2019.
4. No response was received from the respondent.
5. On 13 July 2019 Employment Judge Gumbiti-Zimuto wrote to the claimant asking for details of the amounts claimed and seeking clarification of the name of the respondent. The claimant replied on 26 July 2019 saying that the respondent was a partnership between Simon Escreet and Clare Escreet, and that he was still working for the respondent but his employment would end on 28 July 2019. He attached a spreadsheet of paid and unpaid wages showing a

balance of £1,945 due at the time he submitted his claim but £4,700 due at the date the spreadsheet was compiled.

6. The file was then referred to me for consideration.

7. Under rule 21(2) where there has been no response presented:

*“an employment judge shall decide whether on the available material ... a determination can properly be made of the claim, or part of it. To the extent that a determination can be made, the judge shall issue a judgment accordingly. Otherwise, a hearing shall be fixed before a judge alone.”*

8. That provision is supplemented by the Presidential Guidance of 4 December 2013 on rule 21 judgments.

9. In accordance with the Presidential Guidance I considered the material before me at the time, which was the claimant's claim form, together with his response to EJ Gumbiti-Zimuto's letter. At the point of my decision and as at today's date no response has been submitted by the respondent.

10. It appeared to me from this that:

- a. The claimant had correctly complied with the early conciliation procedure and there was no other jurisdictional bar to his complaints.
- b. The slightly unusual form in which the name of the respondent was correct given the claimant's contention that they were a partnership.
- c. The respondent had had a proper opportunity to file a response and defend the claim but had not done so.
- d. The claimant was owed at the time of the claim £1,945 in unpaid wages. It appeared additionally that he was claiming (i) unspecified holiday pay, and (ii) further unpaid wages since the date of his claim.
- e. I could properly award the claimed £1,945 in unpaid wages but not any further amount of unpaid wages (which would require an application to amend) nor the amount of any holiday pay (which was unspecified).

11. Accordingly, I issued a rule 21 judgment for the amount of the wages claim at the time the claim was submitted, while deferring consideration of any further unpaid wages (and any application to amend) or holiday pay to the hearing listed for 11 December 2019. I prepared a judgment on those terms which was signed on 23 August 2019 and issued by the tribunal on 16 September 2019.

12. On 30 September 2019 the respondent wrote to the tribunal asking for written reasons for the judgment, and indicating an intention to apply for reconsideration following receipt of the written reasons and to appeal the judgment.

13. That email was referred to me by tribunal staff on 23 October 2019. This document comprises the written reasons that have been requested. For the avoidance of doubt, the case remains listed for hearing for 11 December 2019 to deal with the matters set out at para 3 of the rule 21 judgment.

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Employment Judge Anstis  
24 October 2019

Sent to the parties on

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for the Tribunal Office