



THE EMPLOYMENT TRIBUNALS

Claimant

Ms J Thompson

Respondent

M J Barker Ltd

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

The claimant is entitled to a redundancy payment payable by the respondent. in the sum of £6814.64 , of which she has been paid £3500 , leaving a balance due of £3314.64.

REASONS

1. The claim is for a redundancy payment only. A claim may be validly served on a limited company at its registered office. This claim was posted there and returned, by Royal Mail, marked “addressee gone away”. The respondent has ceased trading but is shown on a Companies House search as “active -proposal to strike off” In Zietsman and Du Toit t/a Berkshire Orthodontics-v-Stubbington the Employment Appeal Tribunal said “*in the context of employment protection legislation. It will often be the case that an employer goes out of business and ceases to trade from the premises at which the former employee worked. In such circumstances where is the employee to direct his claim? It must be to the last known place of business*”. I am convinced the claim should be deemed to have been validly served on 7 October 2019 A response was due by 4 November but none was received.

2. An Employment Judge is required by rule 21 of the Employment Tribunals Rules of Procedure 2013 (the Rules) 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 sufficient information to enable me to find the claim proved on a balance of probability As I am empowered by the Rules, I sent written questions to the claimant. She has replied giving information which enables me to determine the sum to be awarded..

3. She was born 3 February 1962 started continuous employment on 26 August 1992 and was dismissed without notice on 11 May 2019. For calculation of redundancy payments, the period of statutory minimum notice is added to the actual date but only 20 years continuous employment may be taken into account

4. The law relating to redundancy payments is in Part XI of the Employment Rights Act 1996 (the Act). A claimant is entitled to 1 week’s gross pay for every complete year of continuous employment during the whole of which he was over 22 but under

41 and 1.5 weeks pay for years over 41. The claimant was over 41 years old for his 16 years continuous employment and under that age for 4 . The claimant's gross weekly pay was £ 243.38 gross. Multiplied by 28 = £6814.64

5 If the claimant cannot recover the money from the respondent she should apply to the Secretary of State at the Redundancy Payments Office

TM Garnon Employment Judge
Date signed 6 November 2019