



EMPLOYMENT TRIBUNALS

Claimant: Ms Victoria Gillham

Respondent: EVG Ltd

Heard at: Ashford Employment Tribunal

On: 15 October 2019

Before: Employment Judge Martin

Representation

Claimant: In person

Respondent: No attendance, no response

JUDGMENT

1. Jagdip Bathal and Elite Venue Centre Limited are discharged as Respondents. EVG Ltd remains as the only Respondent.
2. The Claimant was unfairly dismissed by the Respondent
3. The Respondent shall pay to the Claimant the following sums:

a. Basic award:	£ 3,084.00
b. Compensatory award:	£24,300.00
c. Unpaid holiday: (28 per year for two years)	£ 6,925.00
d. Unauthorised deduction from wages:	<u>£ 77.00</u>
4. **Total amount due** **£34,386.00**

REASONS

1. The Claimant was employed by the Respondent for 6.5 years. On 1 October 2018 Elite Venue Centre Ltd was sold to EVG Ltd by way of a TUPE transfer. This means that EVG Ltd stand in the shoes of Elite Venue Centre Ltd and are liable for sums due to the Claimant prior to the transfer taking place. Elite Venue Centre Ltd is therefore not an appropriate Respdonetrn and was discharged from

the proceedings.

2. EVG Ltd, had been served with the Claim form at its registered office on 19 June 2019. It was served at the correct address. The papers were returned to the Tribunal on 25 June 2019 with a handwritten annotation "Return to sender as this is not a communication address. Please update records. Thank you". The Tribunal was satisfied that the papers were correctly served at the company registered office and therefore proceeded on the basis that this was an undefended claim as no response had been received.
3. The Claimant provided a bundle of documents which included her original payslips from which the Tribunal verified how much she was paid when working for Elite Venue Centre. There were no payslips from the Respondent. The Claimant was paid £2,777 pcm.
4. The Claimant worked for four years without holiday as she was the only manager. She is entitled to 28 days statutory holiday per annum. The Claimant can only claim for two years and is awarded £6,925 representing two years holiday at her net pay.
5. Elite Venue Centre Ltd underpaid the Claimant by £77 prior to the transfer. This is an unauthorised deductions from wages which the Respondent is now liable for, and the Respondent shall pay this sum to the Claimant.
6. The Claimant provided a witness statement and answered questions put to her by the Tribunal. The Claimant's evidence is that on 5 November 2018 on arrival at work she was told she was suspended and that she should collect all her belongings which she did. She then heard nothing from the Respondent despite her requests for information and did not receive a P45 or P60 or any other documentation.
7. The Claimant has found it difficult to get employment as she has not got a reference to cover her previous 5 years employment. She is hopeful of obtaining work shortly. She has made many applications for work all of which have not been successful because of a lack of a reference.
8. The Tribunal is satisfied from the evidence before it that the Claimant was dismissed on 5 November 2018 despite it being called a suspension. The Respondent behaviour after this date confirms this. There was no procedure in terms of a disciplinary hearing in accordance with the ACAS code of practice. The Claimant's dismissal is therefore unfair.
9. The Tribunal is satisfied that the Claimant has taken reasonable steps to mitigate her loss. She is claiming up to the date of this hearing (50 weeks) at £486 per week. The Respondent shall pay compensation to the Claimant of a basic award of £3,084.00 and a compensatory award of £24,300.

Employment Judge Martin

Date: 15 October 2019