



EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case No: 4111556/2019

Held in Dundee on 2 December 2019

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Employment Judge I McFatridge

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Mr C Goddard

**Claimant
In person**

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Alistair Joseph Blyth

**First Respondent
Represented by
Mr Sutherland,
MacNabs - written
representations**

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Swift Labour Supplies Ltd

**Second Respondent
Represented by
Mr Sutherland,
MacNabs**

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JUDGMENT

Rule 21 of the Employment Tribunal Rules of Procedure 2013

The Rule 21 judgment of the Tribunal is

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1. that the claim so far as directed against the first respondent, Alistair Joseph Blyth is dismissed.

2. The second respondent, Swift Labour Supplies Ltd, unlawfully withheld wages from the claimant in the sum of Two Thousand Six Hundred Pounds (£2600) gross. The second respondent shall pay the said sum of Two Thousand Six Hundred Pounds (£2600) to the claimant.
- 5 3. The second respondent, Swift Labour Supplies Ltd, shall pay to the claimant the sum of Five Hundred and Forty Pounds (£540) in respect of annual leave accrued but untaken as at the date of termination of employment in terms of Regulation 14 of the Working Time Regulations.
- 10 4. The said sums have been awarded gross. In the event that the second respondent is required by statute to make deductions therefrom in terms of the PAYE scheme for Tax and National Insurance contributions the second respondent shall be entitled to do so before payment but that on condition that
- 15 (i) the said sums deducted in respect of Tax and National Insurance are immediately remitted to the appropriate government authorities;
- (ii) the claimant is provided with a statement setting out the deductions which have been made and the way that the sums have been calculated;
- 20 (iii) if required by the claimant the second respondent shall provide proof that the said sums have been remitted to the appropriate government authorities.

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REASONS

1. The claimant submitted a claim to the Tribunal in which he claimed that he was due wages following the termination of his employment together with a sum in respect of holidays accrued but untaken as at the date of termination of his employment. He initially raised his claim against Alistair Joseph Blyth the first respondent. Mr Blyth submitted an ET3 in which he denied the claim. He indicated that the claimant had been employed by
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his company who are the second respondent. The second respondent was then sisted as additional respondent to the claim. They submitted a response in which they did not deny the claim. The claimant has indicated to the Tribunal that he is happy to proceed no further with his claim against the first respondent.

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2. Given that the second respondent does not deny the claim I consider it appropriate to issue a judgment as noted above. The claimant claimed one month's wages which according to the figures provided by him amounts to £2600 gross, £1953 net. He also indicated that he was due 4.5 days' holiday pay. I calculate his weekly gross pay as £600 and four and a half day's pay amounts to £540.

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3. I have awarded these sums gross since it is unclear whether or not the second respondent is still in a position to submit payment to HMRC under the PAYE scheme. As noted above in the event that they are then they are entitled to deduct from the sums payable any Tax and National Insurance which becomes due in the normal way provided they meet the terms set out above.

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Employment Judge:
Date of Judgment:
Date sent to parties:

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Ian Mcfatridge
04 December 2019
04 December 2019