

10



EMPLOYMENT TRIBUNALS

Claimant: Mrs A Patrick
Respondent: Taphon Limited
Heard at: East London Hearing Centre
On: Thursday 23 January 2020
Before: Employment Judge Hallen

Representation

Claimant: In person
Respondent: Neither present nor represented

JUDGMENT

The judgment of the Employment Tribunal is that the Claimant is entitled to receive the following payments: -

1. Unpaid wages for July 2018 in the sum of £538.00 gross (£441.17 net);
2. 12 weeks' pay in lieu of notice in the sum of £1614 gross (£1323.51 net);
3. Redundancy pay in the sum of £3220.00;
4. Unpaid holiday pay for half a day holiday owed to her determination of her employment in the sum of £20 net.

REASONS

Issues

1 The Claimant in her Claim Form received by the Tribunal on 11 August 2019 argued that she was entitled to back pay for the month of July 2018, payment in lieu of 12 weeks' notice, redundancy pay and holiday pay in respect of half a days pay.

2 The Tribunal had to ascertain, in the first instance, the effective date of termination. Thereafter, the Tribunal had to ascertain the reason for dismissal and if it

was due to redundancy, the Tribunal had to ascertain the payments owed to the Claimant on the termination of her employment.

3 The Respondent did not attend the hearing and did not lodge a Response Form responding to the Claimant's claims.

4 The Claimant attended in person and gave oral evidence under oath. She also produced a short bundle of documents which she referred the Tribunal to including a witness statement. The Tribunal noted that the Claimant produced an extract from Company's House website, which was published in the gazette on 10 December 2019, that there was an active proposal to strike off the Respondent company. Such note confirming "*the registrar of companies gives notice that, unless good grounds are shown to the contrary, the company will be struck off the registrar and dissolved not less than two months from the date shown above*". That date was 10 December 2019. It further goes on to say "*upon the company's dissolution, all property and rights vested in, or held in trust for, the company are deemed to be bona vacantia and will belong to the crown.*".

Facts

5 The Claimant worked as a Sales Administrator for this small telecoms company commencing employment on 22 July 1997 and latterly worked part time being 15 hours per week receiving gross monthly pay of £538 per month and that equated to £441 per month net.

6 The Claimant confirmed that she last worked last full time for the Respondent up to 31 July 2018.

7 She contacted the Respondent's managing director, Mr Hanson in August 2018 requesting payment of her salary for July in the sum of £538 gross being £441.17 net. After weeks of prevarication, she had cause to text Mr Hanson on 5 September 2018 stating that contrary to what he told her in August, no administrator had been appointed and she requested the administrator's contact details. The managing director did not respond. She continued to contact the company and its managing director from September until the end of 2018 by both email, text and telephone confirming that monies were still owed to her in respect of unpaid wages for July, unpaid statutory notice for 12 weeks, unpaid redundancy pay assuming that the company was in administration and holiday pay for half a day's pay. At the end of November 2018, the Claimant was advised that one of the director's partners had passed away and she expressed her condolences albeit no confirmation was given to her in respect of the appointment of an administrator, the termination of her employment and/or the winding up of the company.

8 On 20 February 2019, a director of the company contacted the Claimant expressing his concerns that an administrator had not been appointed, even though previous promises were made to her.

9 On 27 March 2019, the Claimant sent a letter to the company by recorded delivery requesting the outstanding payments due to her as well as outlining if the

company had gone into administration, the amount of redundancy pay that was owed to her.

10 On 1 April 2019, the Claimant was notified that the company had signed for her recorded delivery letter but she had not received a response.

11 On 17 May 2019, the Claimant contacted the Citizen Advice Bureau where she was advised to proceed to the ACAS pre-claims conciliation process and on 8 June 2019, on commencement of the ACAS conciliation process and without notification from the employer as to the Claimant's employment status, she treated herself as dismissed by reason of redundancy. The Claimant gave evidence to the Tribunal; which was accepted that between the period 31 July 2018 to 8 June 2019, she treated herself as still being employed by the Respondent whilst the Respondent had given her promises that it was in the process of appointing an administrator and attempting to resolve the payments owed to her. When she came to realise that "*the wool had been pulled over her eyes*", she treated herself as dismissed as of the 8 June 2019, by reason of redundancy. Thereafter, she lodged her Claim Form with the Tribunal within three months of the effective date of termination, being 8 June 2019, and the Claim Form was received by the Tribunal on 11 August 2019 within the statutory time limit.

Conclusions

12 After hearing the Claimant's above evidence and noting that the Claimant had lodged her Claim Form within three months of the effective date of termination, the Tribunal ascertained that the reason for the Claimant's dismissal was due to redundancy, namely the employer's needs for her to undertake her duties as Sales Administrator at the company's premises in Essex had ceased or diminished which was a redundancy situation. The Claimant had not been paid her last month's wages for July 2018 and was therefore owed a gross sum of £538 being £441.17 net. Due to her length of service, the Claimant was entitled to the maximum statutory notice pay being 12 weeks which £1614 gross was being £1323.51 net. In addition, as the Claimant was dismissed by reason of redundancy, she was entitled to £3220 redundancy pay as well as half a day's holiday pay in the sum of £20 net.

Employment Judge Hallen

5 February 2020