



THE EMPLOYMENT TRIBUNALS

Claimant

Mr James Dunham

Respondent

Total Solutions Group (London) Limited

EMPLOYMENT JUDGE GARNON

MADE AT NORTH SHIELDS

ON 6 February 2020

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

1. The name of the respondent is amended to that shown above without need for re-service. The claims of unlawful deduction of wages and failure to pay compensation for untaken annual leave are well founded.
2. On the claim of former, I order the respondent to repay to the claimant £474.38 gross of tax.
3. On the later, I order the respondent to pay to the claimant compensation of £742.50 gross of tax.
4. The hearing listed for 14 February 2020 is cancelled

REASONS

1. The claim was accepted on 6 December 2019 against Total Solutions Group which was the trading name of the above named company. A limited company may be sued in its trading name and no injustice is done by adding the words (London) Limited. It was served, by post to the registered office of the respondent as confirmed by a company search, on 19 December 2019 . A response was due by 16 January 2020 but none was received. An Employment Judge is required by rule 21 of the Employment Tribunals Rules of Procedure 2013 to decide on the available material whether a determination can be made and, if it can, obliged to issue a judgment. I have in the claim form and further information supplied in response to letters sent on the direction of Employment Judges Johnson and Sweeney sufficient to decide liability and remedy.
2. The law relating to unlawful deduction of wages is in Part 2 of the Employment Rights Act 1996 (the Act). A non-payment of wages due is deemed to be a deduction. The Working Time Regulations 1998 (WTR) say in Regulation 14 where a worker's employment is terminated during the course of his leave year, and on the date on which the termination takes effect the proportion he has taken of the leave to which he is

entitled in the leave year differs from the proportion of the leave year which has expired. his employer shall make him a payment in lieu of untaken leave calculated by a formula. Such sums are awarded gross of tax.

3.The claimant's gross pay was £8.25 per hour. He worked 57.5 hours for which he has not been paid . Of his annual leave entitlement under the WTR of 5.6 weeks he took 90 hours less leave during his employment than his proportionate entitlement to his termination date which produces compensation of **£742.50**

Employment Judge Garnon
Date signed 6 February 2020