



EMPLOYMENT TRIBUNALS

Claimants

(1) Ms L Varnham
(2) Ms L Muscat
(3) Mr Z Ohanian

Respondents

v (1) United Jewellers Limited
(2) NQ Retail London Limited

Heard at: London Central

On: 16 March 2020

Before: Employment Judge E Burns

Representation

For the Claimants: In person

For the Respondent: No appearance

RESERVED JUDGMENT

- (1) The judgment of the tribunal is that the respondents have unlawfully failed to pay wages to the claimants and/or that such failure is a breach of contract.
- (2) The tribunal orders the first respondent to pay, within 14 days of today's date:
 - (a) £8,791.56 to Ms Varnham, the first claimant;
 - (b) employer pension contributions for the period from 21 October 2019 to 12 January 2020 into the pension scheme it was operating for employees on behalf of Ms Varnham;

- (c) £ 7193.77 to Ms Muscat, the second claimant; and
 - (d) employer pension contributions for the period from 21 October 2019 to 12 January 2020 into the pension scheme it was operating for employees on behalf of Ms Muscat.
- (3) The tribunal orders the second respondent to pay, within 14 days of today's date:
- (a) £9,741.62 gross to Mr Ohanian; and
 - (b) employer pension contributions for the period from 21 October 2019 to 12 January 2020 into the pension scheme it was operating for employees on behalf of Mr Ohanian
- (4) It is recognised that the payments referred to at 2(a), 2(c) and 3(a) are gross amounts and that the respondents will make the payments net of deductions for income tax, employee national insurance contributions, employee pension contributions and other lawful deductions that may apply

REASONS

Hearing

1. A Notice of Hearing was sent to the parties on for Monday 27 January 2020. The Notice of Hearing expressly referred to the issues set out above.
2. The respondents' representative wrote to the tribunal on 12 March 2020 (by email) requesting a postponement of the hearing. The postponement request was for two reasons:
 - (a) the existence of a fourth claim that was due to be heard on 21 May 2020;
 - (b) the majority shareholder of the respondents is recovering from emergency surgery and would not be able to provide the firm with instructions in relation to the hearing.
3. The request was considered earlier today and rejected on the grounds that liability for the claims had already been conceded. An email was sent to the respondent's representative to confirm this. However, the respondent 's representative did not attend the hearing.

4. The tribunal rang the representative for the respondents at the time of the start of the hearing and was able to speak to him by telephone. He confirmed that this absence was voluntary.
5. The claimants made an application that the hearing should proceed in the respondents' absence. Having made such enquiries as I considered to be practicable about the reasons for the absence of the respondent's representative as required by Rule 47 of the Tribunal Rules, I agreed to that application.
6. The overriding objective requires the tribunal to avoid delay, so far as compatible with the proper consideration of the issues. In light of the fact that liability has been conceded, the claimants before me should not have to wait until 21 May 2020 (a further two months) for judgment to be made in their favour.

First Claimant - Ms Varnham

7. The first claimant was employed by the first respondent as a Production Coordinator from 12 February 2019 until 12 January 2020 when she was made redundant. Notice of termination was given in accordance with her contract on 12 December 2019.
8. The first claimant's gross monthly salary was £3,166. At the time of the termination of her employment she also had accrued, but untaken holiday entitlement.
9. The claimant provided documentation from the respondent confirming the above details in which:
 - (a) the first respondent agrees that the first claimant was not paid salary from 21 October 2019 to 12 January 2020 and is due payment.
 - (b) the first respondent agrees that the first claimant was due £265.99 in holiday pay on termination.
10. The total amount due is £8,791.56. This is also confirmed in the Response.
11. The first claimant informed me that the first respondent also paid an employer contribution into a pension scheme on her behalf of 3% of salary, with the claimant paying 5% of her salary as an employee pension contribution. This is consistent with the information on her pay slip and is also due to be paid.

Second Claimant – Ms Muscat

12. The second claimant was employed by the first respondent as a Wholesale Director from 11 February 2019 until 29 November 2019.

13. The first claimant's gross monthly salary was £5,416.66. At the time of the termination of her employment she also due expenses.
14. The second claimant provided documentation from the first respondent confirming the above details in which:
 - (a) The first respondent agrees that she was not paid salary from 21 October 2019 to 29 November 2029 and is due payment.
 - (b) The first respondent agrees to pay the claimant £128.80 in expenses
15. This is also confirmed in the Response.
16. The second claimant also provided evidence that the first respondent had agreed she could recover expenses for additional charges incurred as a result of not being paid. She told me this came to £24.
17. I am therefore ordering a total payment of 7,193.77.
18. The second claimant informed me that the first respondent also paid an employer contribution into a pension scheme on her behalf of 3% of salary, with the second claimant paying 5% of her salary as an employee pension contribution. This is consistent with the information on her pay slip and is also due to be paid.

Third Claimant – Mr Ohanian

19. The third claimant was employed by the second respondent as a Senior Sales Consultant from 29 July 2019 until 12 January 2020 when he was made redundant. Notice of termination was given in accordance with his contract of employment.
20. The third claimant's gross monthly salary was £3,583.33. At the time of the termination of his employment he also had accrued, but untaken holiday entitlement.
21. The third claimant provided documentation from the second respondent confirming the above details in which:
 - (a) The second respondent agrees that the third claimant was not paid salary from 21 October 2019 to 12 January 2020 and is due payment.
 - (b) the second respondent has also agrees that the third claimant was due £94.26 in holiday pay on termination.
22. The total amount due is £9,741.62. This is also confirmed in the Response.

23. The third claimant informed me that the second respondent also paid an employer contribution into a pension scheme on his behalf of 3% of salary, with the third claimant paying 5% of his salary as an employee pension contribution. This is consistent with the information on his pay slip and is also due to be paid.

Employment Judge E Burns

16 March 2020

Sent to the parties on:

17 March 2020

For the Tribunal:

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