



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case Nos: 4106042/2019; 4106043/2019 and 4106044/2019

Mr James Kerr

First Claimant

Mr Gordon Stewart

Second Claimant

Mr Junior Hollywood

Third Claimant

Murchland Construction Limited

Respondent

JUDGMENT

Rule 21 of the Employment Tribunal Rules of Procedure 2013

The judgment of the Employment Tribunal is that the first, second and third named claimants' claims for payment of (a) statutory redundancy pay, (b) notice pay and (c) accrued but untaken holiday pay succeed and that the respondent shall pay to each claimant, respectively, the total sums set out below, being:-

- (1) In respect of the first claimant (**James Kerr**), the total sum of **£20,342 (Twenty Thousand Three Hundred and Forty Two Pounds only)**, being comprised of £14,986.00 in respect of statutory redundancy payment, £4,944.00 in respect of payment in lieu of notice and £412.00 in respect of unpaid holiday pay.
- (2) In respect of the second claimant (**Gordon Stewart**), the total sum of **£19,326.00 (Nineteen Thousand Three Hundred and Twenty Six Pounds)**, being comprised of £13,970.00 in respect of statutory redundancy

payment, £4,944.00 in respect of payment in lieu of notice and £412.00 in respect of unpaid holiday pay.

- (3) In respect of the third claimant (**Junior Hollywood**), the total sum of **£17,294.00 (Seventeen Thousand, Two Hundred and Ninety Four Pounds)**, being comprised of £11,938.00 in respect of statutory redundancy payment, £4,944 in respect of payment in lieu of notice and £412.00 in respect of unpaid holiday pay.

REASONS

1. A copy of the claim form setting out all three claimants' complaints was sent to the respondent on 8 May 2019.
2. In accordance with the terms of Rule 16 of the Rules to be found in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 the respondent was required to enter a response within twenty eight days of the date on which a copy of the claim was sent to it, but failed to do so.
3. The Respondent company is in compulsory liquidation. The liquidator of the respondent company is Blair Milne, Titanium, 1 King's Inch Place, Renfrew, PA4 8WF. Consent was sought in Kilmarnock Sheriff Court for these proceedings to continue and was granted by the Court (Sheriff Foran) on 16 January 2020.
4. The claimants' representative was asked to provide information on the quantification of the claimants' claims. An Employment Judge decided that on the available material a determination could properly be made without a hearing as to the liability of the respondent for the claim.
5. On the basis of the available material the Employment Judge decided she could properly determine remedy as follows:-
 - (a) In respect of the first claimant (James Kerr), the total sum of £20,342 (Twenty Thousand Three Hundred and Forty-Two Pounds only), being comprised of £14,986.00 in respect of statutory redundancy payment,

£4,944.00 in respect of payment in lieu of notice and £412.00 in respect of unpaid holiday pay.

The redundancy payment to the first claimant is calculated on the basis of the first claimant's length of service of 43 complete years, being aged 60 on the effective date of termination of employment and with a gross weekly pay of £556 subject to statutory cap at date of dismissal of £508 (£508 x factor of 29.5).

The payment in lieu of notice to the first claimant is calculated with regard to his length of service being in excess of 12 years, and is therefore the statutory maximum of 12 x £412 (his net week's pay).

Holiday pay is calculated on the basis of the first claimant being due payment in respect of one week's pay (1 x £412).

- (b) In respect of the second claimant (**Gordon Stewart**), the total sum of **£19,326.00 (Nineteen Thousand Three Hundred and Twenty Six Pounds)**, being comprised of £13,970.00 in respect of statutory redundancy payment, £4,944.00 in respect of payment in lieu of notice and £412.00 in respect of unpaid holiday pay.

The redundancy payment to the second claimant is calculated on the basis of the second claimant's length of service of 40 complete years, being aged 56 on the effective date of termination of employment and with a gross weekly pay of £556 subject to statutory cap at date of dismissal of £508 (£508 x factor of 27.5).

The payment in lieu of notice to the second claimant is calculated with regard to his length of service being in excess of 12 years, and is therefore the statutory maximum of 12 x £412.00 (his net week's pay).

Holiday pay is calculated on the basis of the second claimant being due payment in respect of one week's pay (1 x £412.00).

- (c) In respect of the third claimant (**Junior Hollywood**), the total sum of **£17,294.00 (Seventeen Thousand Two Hundred and Ninety Four Pounds)**, being comprised of £11,938.00 in respect of statutory

redundancy payment, £4,944.00 in respect of payment in lieu of notice and £412.00 in respect of unpaid holiday pay.

The redundancy payment to the third claimant is calculated on the basis of the third claimant's length of service of 17 complete years, being aged 54 on the effective date of termination of employment and with a gross weekly pay of £556 subject to the statutory cap as at date of dismissal (£508 x factor of 23.5).

The payment in lieu of notice to the second claimant is calculated with regard to his length of service being in excess of 12 years, and is therefore the statutory maximum of 12 x £412.00 (his net week's pay).

Holiday pay is calculated on the basis of the first claimant being due payment in respect of one weeks pay (1 x £412.00).

Employment Judge:	Shona Maclean
Date of Judgment:	23 March 2020
Entered in register	24 March 2020
Copied to parties	