



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4103105/2019

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Held in Glasgow on 20 June 2019

Employment Judge R Gall

10 **Miss C Page**

**Claimant
In Person**

Bute House Limited

**Respondent
No appearance and
No representation**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Tribunal is as follows: –

20 (1) The claim in respect of breach of contract, notice pay, was brought out of
time. It is however considered appropriate to extend time to enable the claim
to proceed. This is on the basis that it was not reasonably practicable for the
claimant to present the claim in respect of notice pay within time and that she
presented within a reasonable time of becoming aware of her right to bring
25 such a claim.

(2) The claimant is awarded the sum of £1661.54 in respect of the breach of
contract through failure to pay her notice pay.

(3) The dismissal of the claimant by the respondents was by reason of
redundancy. The claimant is awarded £2007.67 by way of redundancy pay.

30 As stated at the Hearing, in terms of Rule 62 of the Employment Tribunals
(Constitution & Rules of Procedure) Regulations 2013, written reasons will not be
provided unless they are asked for by any party at the Hearing itself or by written
request presented by any party within 14 days of the sending of the written record

E.T. Z4 (WR)

of the decision. No request for written reasons was made at the Hearing. The following sets out what was said, after adjournment, at the conclusion of the hearing. It is provided for the convenience of parties.

REASONS

- 5 1. This case called at Glasgow for hearing on 28 June 2019. The claimant appeared in person. There was no appearance and no representation for the respondents. Their representative had withdrawn from acting. Notice of hearing for today's diet was sent directly to the respondents. There has been no reply by the respondents to the notice of hearing. There has been no
10 contact by them with the Tribunal since their representative withdrew. Form ET3 contained no contact details for the respondents directly, the contact details given being those of their representative.
- 15 2. The Tribunal waited for 15 minutes to ascertain whether there was any appearance by or on behalf of the respondents. There was no such appearance during that time and also during the time when the hearing took place. The hearing adjourned after evidence to allow consideration to be given to the facts and circumstances. It resumed at 11:20 AM and concluded some 10 minutes later. There was during all that time no appearance by or on behalf of the respondents and no contact by on their behalf with the Tribunal.
- 20 3. The claimant give evidence. I accepted her evidence as being credible and reliable.
4. The following facts were proved at the hearing by reason of the claimant's evidence.
- 25 5. The claimant was employed by the respondents between 3 April 2004 and 30 September 2019. She had 15 years service. She was born on 24 November 1981. She was therefore 36 years old at date of termination of employment. Her monthly wage was £600 both gross and net. On a weekly basis this amounted to payment of £138.46.
- 30 6. There was a meeting of staff called for 10 September. The claimant attended that. The owner of the business for which she worked, the respondents, was

Vijay Khan. He was present at this meeting. He told staff that the care home where the claimant worked East Kilbride was going to close. When questioned as to when this would happen, as to arrangements and about written confirmation being obtained, he said that lawyers were involved and that staff would be paid through to October. He said that rotas should continue.

- 5 7. The claimant trusted Mr Khan. Other staff also trust him.
8. The claimant went on holiday on 15 or 16 September. On her return a week later, she phoned the care home to see if shifts still existed. She was rostered to work through until the end of September. She returned to work on 25
10 September and worked Monday and Tuesday that week. She believed that she would be working the following week.
9. On the weekend before she was due to resume work, on 30 September, she received a text sent on behalf of Mr Khan saying that no more shifts were available and that the residents were not at the care home any longer. She
15 took it therefore that her employment had ended. She tried to phone back the sender of the text. That did not prove possible. She did not ever receive any written notification of termination of employment. She did not receive a P45.
10. The claimant's employment therefore ended on 30 September 2018. The reason for termination of her employment was redundancy.
- 20 11. The claimant was unfamiliar with Employment Tribunals. She has not pursued a claim before this current claim. She had no knowledge of time limits applying to presentation of claims.
12. The claimant telephoned ACAS in late October or early November 2018. She was told by ACAS that she should make contact with the respondents to see
25 if payment would be made to her of notice pay and the redundancy pay. ACAS said that often voluntary payment resulted from such contact. The claimant sent Mr Khan an email towards the end of October or start of November seeking payment of redundancy pay and notice pay. There was no response ever received to that email.

13. The claimant was in contact with other employees of the respondents. Those other employees were also seeking payment from the respondents of notice pay and redundancy pay. Mr Khan was in touch with some of them. He continually reassured them that payment would be made and that his lawyers were putting in hand the necessary paperwork and arrangements. The claimant was reassured by this. She did not raise any claim at this point. She continued to believe that Mr Khan would make arrangements for payment.
14. The claimant spoke with ACAS towards the end of January. They recommended that she speak to citizens advice bureau. She could not afford to take legal advice although she spoke with Strathclyde University Law Clinic where advice is provided free of charge. She did that during the course of March 2019. They told her that she should present a claim as quickly as possible and alerted her to the fact that her breach of contract claim was out of time. She therefore presented her claim on 21 March having proceeded through the process to obtain the ACAS early conciliation certificate, making contact with ACAS on 15 March with the certificate being issued on 18 March.
15. The claimant has a son who unfortunately is unwell. He is affected by Noonan syndrome. This means that he requires a lot of care and attention. He has temper tantrums and often requires to be taken out of school. He becomes very upset. He was suffering badly around the end of 2018 and start of 2019. The claimant's attention was therefore devoted to him to a large extent. In February 2019 the claimant's older son required attention as a result of learning difficulties.
16. I was persuaded by the evidence of the claimant that her ignorance of time limits was reasonable and that it had not been reasonably practicable for her to lodge the claim for breach of contract in time. I therefore extended time to enable that element of claim to proceed.
17. The claimant is entitled to 12 weeks notice. Her weekly rate of pay results in the sum due to her of £1661.54. The respondents are ordered to pay that sum to her.

18. The claimant is due a redundancy pay. Her claim in that regard is brought in time. Calculating the sum due to her having regard to age, length of service and weekly pay results in a payment due to her by way of redundancy pay of £2007.67. That sum is awarded to her.

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Employment Judge:

R Gall

Date of Judgement:

28 June 2019

Entered in Register,

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Copied to Parties:

03 July 2019

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