



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr Parmjit Singh Gill v 1. **Purple Parking Limited (In Administration)**
2. **Secretary of State for Business, Energy
and Industrial Strategy**

Heard at: Watford by telephone

On: 2 April 2020

Before: Employment Judge Alliott

Appearances

For the Claimant: Mr Varinder Gill (son)

For the 1st Respondent: Did not attend

For the 2nd Respondent: Did not attend

JUDGMENT

1. The claimant's claim for a redundancy payment is well founded and the claimant is entitled to a redundancy payment of £2, 951.55 gross.
2. The claim for notice pay is dismissed.

REASONS

1. By a claim form presented on 14 March 2018, following a period of early conciliation from 19 February to 6 March 2018, the claimant made claims for notice pay and a redundancy payment.
2. The first respondent went into Administration in August 2017. The Administrators are Duff and Phelps. In his claim form the claimant states that he "claimed for redundancy through the Government redundancy services who rejected the claim on the basis that the insolvency practitioner had no details of my employment from Purple Parking".
3. Duff and Phelps wrote to the tribunal on 15 March 2019 stating: -

“ERA (the administrator’s agents) asked the joint Administrators for various information to verify the claimant’s employment history with the company and, as such, provided the relevant pay slips and employment contract. The joint Administrators received the employee list sent to us by the company, in order to verify the claimant’s employment at the company, however, were unable to find any information in this regard”.

4. Pursuant to a request from the Secretary of State the second respondent was joined in these proceedings.
5. In its response, the second respondent states it has been unable to verify the claimant’s employment details and had no alternative but to reject the application for payment. The second respondent does not admit the claimant was an employee and he is put to proof on that issue as well as entitlement to payment and, if so, amount.
6. The claimant’s claims were due to be heard today. As with all hearings, the hearing was converted into a telephone preliminary hearing.
7. It was not expected that the first respondent in administration would be represented and in its response the second respondent advised that he does not propose to be represented in person.
8. Unfortunately, the parties and myself were sent the incorrect participant and chairperson passcodes and so the hearing could not take place via BT conferencing. However, I direct dialled the claimant’s representative (his son) and dealt with the matter in that way. If, for any reason, the first and/or the second respondent were excluded then an application for review/reconsideration can be made.
9. The Administrators have been asked twice by the tribunal if they consent to proceedings continuing against the first respondent. No reply has been received. Notwithstanding that no consent has been received, I consider it to be in the interests of justice and expedient to issue a judgment given that all the second respondent appears to require is proof that the claimant was an employee and entitled to a redundancy payment. I have dealt with this case as a section 170 ERA reference.
10. The claimant has sent to the tribunal documentary evidence of his employment. There is what appears to be Page 1 of a contract of employment dated 14 February 2011, copies of the claimant’s Purple Parking I.D and customer services cards, and numerous payslips issued by Purple Parking Ltd to the claimant dated from 31 May 2011 to 31 July 2017.
11. I find that the claimant was employed by the first respondent from 14 February 2011 until dismissal on 15 August 2017 and that he was entitled to a redundancy payment. Section 170(2) ERA presumes that any dismissal is by reason of redundancy.
12. The claimant was not paid a redundancy payment.

13. The claimant's claim for notice pay is a breach of contract claim which should have been presented within 3 months of 15 August 2017. It was not. I offered the claimant the opportunity of presenting evidence as to why it was not reasonably practicable to present the claim in time but the claimant's son told me that in the circumstances the claimant would not pursue this head of claim. Accordingly, I dismiss it.
14. The relevant date is 15 August 2017. For the purposes of section 164 Employment Rights Act 1996 6 months would expire on 14 February 2018. I do not know if the claimant made a claim for a redundancy payment by notice in writing to the employer in this 6 month period. Even if he did not, I find that it is just and equitable that the claimant should receive a redundancy payment as he has clearly been seeking one within the first 6 months and, despite clear evidence that he was an employee, working until the first respondent went into administration and entitled to a redundancy payment, for whatever reason, but no fault of the claimant, the Administrators were unable to verify that employment.
15. The claimant was born on 25 March 1959. He had 6 complete years of service and so is entitled to a multiplier of 9. He had no normal working hours. His last 3 payslips for May, June and July 2017 shows total gross earnings as follows:

31 May 2017: £1,873.23
30 June 2017: £1,072.36
31 July 2017: £1,317.81

Total: £4,263.40 ÷ 13 = £327.95

I find that the claimants week's pay was £327.95

£327.95 x 9 = £2,951.55

Employment Judge Alliott

Date: ...3rd April 2020.....

Sent to the parties on: 20th July 2020...
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For the Tribunal Office