



EMPLOYMENT TRIBUNALS

By Telephone

Claimant: Mr M Richardson

Respondent: R A Stores (Bradford) Limited

HELD AT: Leeds

ON: 4 August 2020

BEFORE: Employment Judge Shulman

REPRESENTATION:

Claimant: In person, but represented by his mother.

Respondent: Did not appear but was not represented.

JUDGMENT

1. The Claimant shall be paid by the Respondent the sum of £4,810.28 for unfair dismissal.
2. The Claimant shall be paid by the Respondent in respect of holiday pay the sum of £887.94.
3. The Claimant shall be paid by the Respondent in respect of unauthorised deduction of wages the sum of £493.30.
4. The Claimant shall be paid by the Respondent for no written statement of particulars the sum of £493.30.
5. Grand total - £6,684.82.

REASONS

1. Claims

Judgment was given on 9 June 2020 for claims of unfair dismissal, no holiday pay, unauthorised deduction of wages and failure to provide written statements of particulars of employment.

2. The Issues

The issues in this case relate to what remedy the Claimant is entitled. He has opted for compensation.

3. The Facts

The Tribunal, having carefully reviewed all the evidence (both oral and documentary) before it, finds the following facts (proved on the balance of probabilities):

3.1. Unfair dismissal

The Claimant was employed by the Respondent from 1 January 2015 to 6 December 2019, so four full years. His age at termination was 31 years. His gross pay was £320.00 per week.

He was out of work from 7 December 2019 to 1 March 2020, when he obtained a new job as a converter's general assistant, earning more than his net wage with the Respondent, which was £246.65. The Claimant was out of work, therefore, for 12 weeks and two days. During that period he did draw Universal Credit Allowance.

In relation to Universal Credit, some was a supplement to his wage with the Respondent but Universal Credit it is not relevant so far as an award made by the Tribunal is concerned, although it will be subject to the Employment Protection (Recoupment of Benefits) Regulations 1996 (the Recoupment Provisions).

3.2. Holiday pay

The Claimant says his holiday year was 1 January to 31 December. He is entitled to 28 days holiday per annum and he did not take 18 days during the last holiday year in which he worked. We will apply his net wage (£246.65) to any calculation. It is worked out not on an annual daily basis (365 days) but on a 260 day year which gives the Claimant a daily holiday rate of £49.33.

3.3. Unauthorised deduction of wages

The Claimant says that he had a week in hand and was not paid for his last week so that he is owed two weeks wages at the net rate pay.

3.4. No particulars

The Claimant says he did not have a contract of employment.

4. Determination of the issues – remedy (after listening to the factual submissions made by and on behalf of the Claimant).

4.1. Unfair dismissal

4.1.1. The Recoupment Regulations apply.

4.1.2. The Tribunal has awarded compensation payable by the Respondent to the Claimant as follows:

4.1.2.1. Basic award £1280.00

4.1.2.2. Compensatory award

4.1.2.2.1. Immediate loss £3030.28

As the Tribunal has indicated no deduction for Universal Credit has been made and this will be dealt with through the Recoupment Provisions.

4.1.2.2.2. Loss of statutory industry rights
£500.00

4.1.2.3.

- (i) Grand total £4810.28.
- (ii) Prescribed element £3030.28.
- (iii) Period of prescribed element 7 December 2019 to 4 August 2020.
- (iv) Excess of (i) over (ii) £1780.00

4.2. Holiday pay

18 days £887.94.

4.3. Unauthorised deduction of wages

£493.30.

4.4. No written statement of particulars of employment

£493.30

5. Total

5.1. Unfair dismissal £4810.28

5.2. Holiday pay £887.94

5.3. Unauthorised deduction of wages £493.30

5.4. No written statement £493.30

5.5. Total £6684.82

Employment Judge Shulman
Date 13 August 2020