



EMPLOYMENT TRIBUNALS

Claimant: Mr J Warhurst

Respondent: AW Roofing (North West) Limited

Heard at: Manchester

On: 5 August 2020

Before: Employment Judge Leach

REPRESENTATION:

Claimant: In person

Respondent: Did not attend

JUDGMENT having been sent to the parties on 10 August 2020 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

The hearing

1. The claimant attended the hearing remotely by CVP. Attempts were made by the Tribunal to contact the respondent but they were not successful.
2. I noted that there had been a number of previous attempts to make contact with the respondent. I further noted that one of the addresses to which Tribunal correspondence had been sent was the home address of the respondent's shareholder. It was clear to me that the respondent had adequate notice of the proceedings including this hearing. I decided that it was in the interests of justice that this hearing go ahead.
3. The claimant provided evidence in support of his claim. The claimant gave evidence having affirmed its truth. I also asked a number of questions of the

claimant. I then considered all of the evidence and information available to me before reaching and providing my judgment which I did at the hearing.

The claims

1. The claimant claims that he is entitled to payment for accrued untaken holidays. The claim is made as a claim of an unlawful deduction from wages, under section 13 Employment Rights Act 1996.

My Findings

2. The claimant gave evidence that he was not allowed to take paid holidays on a number of occasions during his short employment with the respondent and that he was not paid for the untaken holidays at the end of that employment. I accept that evidence.
3. The respondent company is in fact owned and controlled by the claimant's brother, and they had a fallout which led to the claimant leaving his employment.
4. The claimant explained that throughout his employment with the respondent, he had not received wage slips although had asked for a wage slip on a number of occasions and was told that wage slips would follow. The claimant did look on the HMRC website details to identify the amounts that he had been paid gross and net which is where he obtained the figures stated on the claim form.
5. The claimant was employed for 7.5 months as identified in his claim form (from 15 April 2019 to 2 December 2019). He informed me (and I accept) that he worked a 5 day week. On the basis that his holiday entitlement was statutory only, he was entitled to 7.5/12 of 28 days. Thus, his entitlement for his 7.5 months of employment was to 17 days
6. The claimant confirmed as follows:-
 - (i) That he was paid for bank holidays;
 - (ii) That he took and was paid for one or two days holiday during his employment. I have decided that the claimant took 2 days paid holiday in addition to his bank holiday entitlement.
7. In assessing the claim I took into account:-
 - (i) The two May bank holidays;
 - (ii) The August bank holiday;
 - (iii) Two additional days holidays

Taking these from his statutory entitlement of 17.5 days, left the claimant with 12.5 days of unpaid holidays.

8. I applied to this a daily rate of £72.60 (gross). This resulted in a total amount due to the claimant of £907.60.
9. The claimant had also raised on his claim form the issue of pension. In fact, the claimant had opted in to a statutory pension scheme during his employment and it was only at the end of his employment that he wanted to opt out. Following discussion, the claimant confirmed that he did not pursue this element of the claim.
10. The total amount owing by the respondent to the claimant therefore is £907.60 (gross).

Employment Judge Leach

22 September 2020

JUDGMENT SENT TO THE PARTIES ON
28 September 2020

FOR THE TRIBUNAL OFFICE

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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