



THE EMPLOYMENT TRIBUNALS

Claimant
Mr Michael Spearman

Respondent
Hall FM Security Ltd

JUDGMENT OF THE TRIBUNAL Employment Tribunals Rules of Procedure 2013 –Rule 21

MADE AT NEWCASTLE
EMPLOYMENT JUDGE GARNON

ON 23 September 2020

JUDGMENT

1. The claims for a redundancy payment and untaken annual leave are well founded.
2. I order the respondent to pay to the claimant a redundancy payment of £ 4725 on which no tax is payable and £541.86 compensation for untaken annual leave
3. The hearing listed on 5 October 2020 is vacated

REASONS

1. The claimant, born 10 February 1963, presented his claims on 10 October 2019. His start date of employment was 1 July 2013, his gross salary was £747.70 per week. He was dismissed without notice or accrued holiday pay on 4 September 2019 after the respondent ceased trading at the site where he was employed, and though it promised to relocate him, failed to do so causing him to resign in response to its fundamental breach of contract.

2. The claim presented against “Hall FM “ was served on 17 October 2019. No response was received. An Employment Judge is required by rule 21 of the Employment Tribunals Rules of Procedure 2013 (the Rules) to decide on the available material whether a determination can be made. Employment Judge Arullendran performed a company search which showed the above named company with its registered office address the same as that given for service by the claimant. It was shown as in Company Voluntary Arrangement (CVA). Having obtained the claimant’s agreement to amend the name Employment Judge Sweeney ordered re-service on the registered office address. That was effected on 27 November 2019. Again no response was received but a fresh search showed the company had entered Creditors Voluntary Liquidation in December 2019 and changed its registered office address to that of the liquidators.

3. The claimant was informed of his right to claim from the Secretary of State under Part 12 of the Act but notice of a hearing listed for 23 January was not received by him. Due to the Covid 19 pandemic there was a long delay in relisting a hearing and the file was not referred to a Judge to consider again a judgment under Rule 21.

4. I first saw it last week I had sufficient information to enable me to find the claims proved and determine the sums to be awarded. The law of of compensation for untaken annual leave in the Working Time Regulations 1998 and that of redundancy payments is in Part XI of the Employment Rights Act 1996. The amount of a redundancy payment is a calculation based on a "week's pay", date of birth and length of service. The claimant is entitled to one and a half week's pay for each year of continuous employment during which he was over 41, which comes to 9 weeks . When I caused a letter to be written to him I omitted to say the amount is "capped" at £525 per week by s 227. I have no discretion in that matter. It is more important to issue this judgment before the company is dissolved . The claimant should now be able to secure payment from the Redundancy Payments Office

Employment Judge TM Garnon

Date authorised by the Employment Judge 23 September 2020 .