



EMPLOYMENT TRIBUNALS

Claimant: Ms S Okonkwo

Respondent: Rating and Valuation Company Ltd

FINAL HEARING

Heard at: Manchester (by video conference)

On: 26 October 2020

Before: Judge Brian Doyle (sitting alone)

Representatives

For the claimant: Not in attendance or represented

For the respondent: Not in attendance or represented

JUDGMENT

The claimant's complaints in respect of unpaid wages and notice pay are not well-founded. The claim is dismissed.

REASONS

1. The claim contains complaints of (1) unlawful deductions from or non-payment of wages; and (2) non-payment of notice pay.
2. The final hearing was to be conducted this morning by video conference technology. At the appointed time neither party was in attendance or represented. The Tribunal attempted to contact the parties by telephone, but without success. After 35 minutes the Tribunal proceeded to consider the claim under rule 47.
3. The claimant was interviewed for employment by the respondent on 11 February 2020. She was offered employment immediately. She commenced employment on 12 February 2020 (and not, as suggested by the claimant, on 3 February 2020). A statutory statement of employment particulars was issued that day and signed by the claimant.

4. As is apparent from the statutory statement of employment particulars and an itemised pay statement, the claimant's salary was £16,000 per annum and her hours of work were Monday to Friday 8.45am to 5.00pm (with paid breaks in the morning and afternoon and an unpaid lunch break of 30 minutes). Her working hours were thus 38.75 hours per week (and not 40 hours per week as asserted by the claimant). The payroll date was the 10th of each month in arrears.
5. The claimant was summarily dismissed by the respondent for cumulative reasons amounting to misconduct on 28 February 2020. Those cumulative reasons included matters of attendance and time-keeping, under-performance, attitude and inability to take management directions.
6. If it were necessary for me to do so, on the material before me, I would have found that the summary dismissal of the claimant was for gross misconduct and was a lawful dismissal (and not a wrongful dismissal). In any event, both in accordance with her contract of employment and the statutory notice provisions of the Employment Rights Act 1996, the claimant was not entitled to notice or payment in lieu of notice during the first month of her employment. It follows that her complaint in respect of notice pay is not well-founded.
7. The claimant had worked 13 days inclusive of the date of her dismissal. She was not entitled to be paid before 10 March 2020, the next monthly payroll date. The respondent sent her a cheque for her wages, but it appears that it was not received. Accordingly, once so advised, the respondent made timely payment by bank transfer. The respondent did not act in breach of contract in so doing.
8. The claimant was paid on the basis of her hours worked. In the calculation of those hours the respondent quite properly deducted 3.5 hours to reflect lateness or non-attendance and 5 hours unpaid leave. The payment to her represented £771.27 gross or £701.48 net.
9. While I cannot immediately see how the exact calculation has actually been done, it comfortably exceeds the amount I would have calculated on the basis of the material before me. I am unable to find that there has been an unlawful deduction from or non-payment of wages due. That complaint is not well-founded.
10. The claim is dismissed.

Judge Brian Doyle

DATE 26 October 2020

JUDGMENT & REASONS
SENT TO THE PARTIES ON
6 November 2020

FOR THE TRIBUNAL OFFICE