



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr Daniel Korek

v

Parvez Khan t/a Khan Maintenance

Heard at: Watford

On: 3 September 2020

Before: Employment Judge Tynan

Appearances

For the Claimant: Mr Wiencek, Eurolexpartners LLP

For the Respondent: Did not attend and was not represented

JUDGMENT

1. The Employment Tribunal declares that the Respondent made unlawful deductions from the Claimant's wages and orders the Respondent to pay the Claimant the sum of **£3,517.04** in respect of those unlawful deductions.
2. Pursuant to section 38 of the Employment Act 2002, the Employment Tribunal increases the award to the Claimant by the further sum of **£2,261.52**.

REASONS

3. By a Claim Form presented to the Employment Tribunals on 9 November 2019 the Claimant brought claims against the Respondent that he was owed notice pay, holiday pay, arrears of pay and other payments. No response was received from the Respondent and accordingly he was informed by the Tribunal on 1 March 2020 that a judgment would be issued. He was subsequently notified by the Tribunal on 7 March that there would be a hearing to determine remedy on 3 September 2020 but did not attend the hearing or make any written representations.

4. The Claimant was represented at Tribunal though also spoke through an interpreter in support of his claims. He was straightforward and honest. Through his representative he confirmed that he was only seeking unpaid wages and his accrued untaken holiday pay. His representative had prepared an indexed and paginated bundle of documents for the hearing.
5. I find that that by the date the Claimant left the Respondent's employment he was owed £1,900 in respect of unpaid wages. His calculations of the sums owed are at pages 1 and 2 of the hearing bundle. I accept his calculations, which he also provided to the Respondent but were not disputed by the Respondent. On the contrary, the Respondent committed to pay the Claimant those sums, albeit he did not do so.
6. I also accept the Claimant's evidence regarding his outstanding holiday on the termination of his employment. His accrued pro rata holiday entitlement of 14.3 days was calculated using the gov.uk website (page 34 of the hearing bundle). The Claimant didn't take any holiday from the beginning of the holiday year, except for public holidays which he was not paid for and which the Respondent told him he had no entitlement to be paid for. He is therefore owed £1,617.04 for 14.3 days' untaken holiday at the termination of his employment. I agree his calculation at page 30 of the hearing bundle, based on a gross daily rate of pay of £113.08.
7. Finally, throughout his employment with the Respondent and as at the date these proceedings were begun, the Claimant had not been issued with a written statement of particulars of employment in compliance with the requirements of the Employment Rights Act 1996. He regularly asked the Respondent for a contract, but his requests were not dealt with by the Respondent who also failed to answer correspondence from Mr Wienczek on the matter. Similarly, the Respondent has failed to engage with these proceedings. I find that he exploited the fact that there was no written contract or statement in place when he told the Claimant that he was not entitled to be paid for the bank holidays. In all the circumstances, pursuant to section 38(3) of the Employment Act 2002, I consider that it would be just and equitable to increase the award in this case by the 'higher amount' of four weeks' pay, namely by £2,261.52.

Employment Judge Tynan
3 September 2020
Date:
15 December 2020
Sent to the parties on:
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For the Tribunal Office