



EMPLOYMENT TRIBUNALS

Claimant: Mr M Short

Respondent: Everycone Ltd t/a WM Engineering

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

The judgment of the Tribunal is that:

1. The complaint in respect of unpaid wages is well founded and succeeds. The Respondent is ordered to pay to the Claimant the gross amount of **£452.76**.
2. The Complaint in respect of accrued but untaken holiday pay under Regulation 30 Working Time Regulations is well founded and succeeds. The Respondent is ordered to pay to the Claimant the sum of **£1,086.62**

REASONS

3. The Claimant was employed by the Respondent from 31 October 2016 to 14 August 2020.
4. He presented a Claim Form on 13 October 2020 bringing a complaint of unlawful deduction of wages under section 23 Employment Rights Act 1996 and a complaint under regulation 30 Working Time Regulations 1998 ('WTR') in respect of unpaid accrued leave. The proceedings were on the Respondent at Lyndhurst Terrace, Gateshead with a response date of 12 November 2020. However, no response was returned. They were then re-served on the Respondent's registered office in Norfolk Street, Sunderland, with a response date of 16 December 2020. No response was received. Therefore, in accordance with rule 21 of the Tribunal Rules of Procedure an Employment Judge must decide whether on the available material a determination can properly be made of the claim or part of it, and to the extent that a determination can be made, the Employment Judge must issue a judgment.
5. A detailed breakdown of the amounts claimed was provided by the Claimant in his Claim Form.

6. The Claimant worked his notice but was not paid for 1 week of that period, resulting in a failure to pay him (a deduction) the gross sum of £452.76. The holiday year started on 01 January 2020. By the date of termination of his employment he had accrued 17.4 days annual leave. He had taken 5 days leave. He claims for 12 days at the daily rate of £90.55.
7. I am satisfied from the information provided by the Claimant that his wages were not paid and that his employment was terminated without payment of outstanding holiday which he had accrued and for which he was entitled to payment on termination. Therefore, it was appropriate for a judgment to be issued to that effect.

Employment Judge Sweeney

18 December 2020