



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4104915/2020 (V)

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Held via Cloud Video Platform (CVP) on 15 January 2021

Employment Judge A. Tinnion

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Mr M. Hall

Claimant

Mr M. Basi t/a Professional Gardening Services

Respondent

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Tribunal is that:

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1. the Claimant's complaint of unlawful deduction from wages is dismissed under Rule 52, that complaint having been withdrawal by the Claimant;
2. the Claimant's complaint of unfair dismissal is well-founded, and the Claimant is entitled to a remedy in respect of same;
3. the Claimant's complaint of failure to pay holiday pay is well-founded and the Claimant is entitled to a remedy in respect of same.

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ORDER OF THE EMPLOYMENT TRIBUNAL

The Tribunal orders that:

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- 1 A remedy hearing (by CVP) shall be listed for 3 hours on the next available date after 26 February 2021 to determine the Claimant's remedy entitlements.

- 2 The Respondent and any representative shall be entitled to:
- a. attend the remedies hearing;
 - b. submit written submissions to the Tribunal on remedy/compensation,
5 any submissions to be sent to the Claimant and copied to the Tribunal
no later than 4pm on the business day falling 2 business days before
the remedies hearing;
 - c. cross-examine the Claimant's witness(es) on issues of
remedy/compensation only;
 - d. make oral submissions to the Tribunal on issues of
10 remedy/compensation only.
- 3 By 4pm on 12 February 2021, the Claimant shall send to the Respondent
and copy to the Tribunal the following:
- a. an updated schedule of loss (i) particularising all sums sought
15 (ii) providing clear explanation of how each sum is calculated;
 - b. particulars of benefit(s) received since 7 May 2020;
 - c. particulars of any income/earnings from any source since 7 May 2020;
 - d. particulars of any efforts to mitigate loss arising from dismissal;
 - e. copies of any documents on which the Claimant intends to rely at the
20 hearing, which shall include copies of the following:
 - i. Claimant's bank statements for period 1 August 2016 – 31 May
2020 (which Claimant must obtain if he does not already have
copies), Claimant has leave to redact irrelevant entries/private
information if so advised;
 - ii. Claimant's wage/pay slips received during Respondent's
25 employment (or confirm he has none);

- iii. documents evidencing Claimant's wages in 2016, 2017, 2018, 2019, 2020 (or confirm he has none);
- iv. documents evidencing Respondent's financial contribution to Claimant's work pension plan in 2020 (or confirm he has none);
- 5 v. Claimant's P60s for tax years 2016/2017, 2017/2018, 2018/2019 and 2019/2020 (Claimant must check HMRC do not have copies) (or confirm there are none);
- vi. any other documents relevant to compensation/remedy on which the Claimant intends to rely at the remedies hearing.

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REASONS

- 1 At the hearing on 15 January 2021, the Tribunal heard the Claimant's oral evidence, considered the documents referred to in the Claimant's production, and heard the Claimant representative's submissions on (i) jurisdiction/time limits (ii) liability.
- 15 2 For reasons given orally at the hearing, the Tribunal held it has jurisdiction over the Claimant's complaints of unfair dismissal and failure to pay holiday pay, and held in the Claimant's favour on those two complaints.
- 3 The Tribunal determined there to be a need for a separate hearing to determine remedy (today's hearing having been listed for only 1 hour to
20 consider jurisdiction, liability and remedy, and having overrun by more than 2 hours).
- 4 The Tribunal referred the Claimant's solicitor to the principles set out in Office
Equipment Systems Ltd v Hughes [2018] EWCA Civ. 1842, paras. 16-20,
who agreed that as there will now be a separate hearing to determine remedy
25 the Respondent should be given the opportunity to participate in that hearing to the extent indicated below notwithstanding the debarring order.

Employment Judge A. Tinnion

Date of Judgment

15 January 2021

5 **Date sent to parties**

29 January 2021

NOTES

1. You may make a written application to the Tribunal under Rule 29 for this Order to be varied, suspended or set aside. Your application must set out the reasons(s) why you say this Order should be varied, suspended or set aside, and if you seek alternative directions, what alternative directions you seek. You must send the other party a copy of any application and state in your application that you have done so (failure to do this may result in your application not being considered by the Tribunal). Any application to the Tribunal must state in it that the other party should notify the applicant and the Tribunal of any objections to the application as soon as possible.
2. If this Order is not complied with, the Tribunal may make an order under Rule 76(2) for expenses or preparation time against the party in default.
3. If this Order is not complied with, the Tribunal may strike out the whole or part of the claim under Rule 37.