



EMPLOYMENT TRIBUNALS

Claimant: Mr Constantinos Tanti

Respondent: Wolfco CP One Limited

RECORD OF A HEARING

At: London Central Employment Tribunal

Before: Employment Judge Adkin

On: 26 February 2021

Appearance:

For the Claimant: Ms L Caller, Solicitor

For the Respondent: Ms K Entwistle, Director

JUDGMENT

1. The Judgment of Employment Judge Adkin dated 6 June 2020 is revoked under Rule 70 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, Schedule 1 (“the Rules”), given that it seems based on evidence submitted by the Respondent that a ET3/response was submitted on 7 April 2020.

CASE MANAGEMENT ORDERS

Final hearing

1. The final hearing will take place at Victory House 30-34 Kingsway London WC2B 6EX on **Friday 28 May 2021** at **10am** by **video-link**, with a time estimate of **1 day**.

The case will be heard by an Employment Judge sitting alone. The hearing will start at 10.00 am.

Hearing timetable

- The hearing is listed for 1 day. This is based on the Claimant giving evidence and the Respondent calling 2 witnesses.
- The hearing timetable is likely to be:

Day 1	1 hour	Tribunal reading and preliminary matters
	1 hour	Claimant's evidence
	1 hour	Respondent's evidence
	30 min	Submissions (15 min each)
	1 hour	Tribunal making decision and giving Judgment
	1 hour	Dealing with quantum of remedy if appropriate

- If you think that more or less time will be needed for the hearing, you must tell the Tribunal as soon as possible.

Claims and Issues

- The claims and issues, as discussed at this preliminary hearing, are listed in the Case Summary below. If you think the list is wrong or incomplete, you must write to the Tribunal and the other side within 7 days. If you do not, the list will be treated as final unless the Tribunal decides otherwise.

Schedule of Loss

- A schedule of loss has already been provided.

Documents

- Some exchange of documents has taken place as a result of today's reconsideration hearing.
- By **19 March 2021** the claimant and the respondent must send each other a list of all documents they have relevant to the issues listed in the Case Summary below, together with copies of those documents. This includes documents relevant to financial losses.
- Documents includes recordings, emails, text messages, social media and other electronic information if relevant. You must list all relevant documents you have in your possession or control even if they do not support your case.

File of documents

10. Before **9 April 2021**, the claimant and the respondent must agree which documents are going to be used at the hearing.
11. The claimant must prepare a file of those documents with an index and page numbers. They must send an electronic copy to the respondent by **9 April 2021**.
12. The file should contain:
 - 12.1 The claim and response forms, any changes or additions to them, and any relevant tribunal orders. Put these at the front of the file.
 - 12.2 Other documents or parts of documents that are going to be used at the hearing. Put these in date order.
13. The claimant and the respondent and relevant witnesses must have available to them a version of the electronic bundle.

Witness statements

14. The claimant and the respondent must prepare witness statements for use at the hearing. Everybody who is going to be a witness at the hearing, including the claimant, needs a witness statement.
15. A witness statement is a document containing everything relevant the witness can tell the Tribunal. Witnesses will not be allowed to add to their statements unless the Tribunal agrees.
16. Witness statements should be typed if possible. They must have paragraph numbers and page numbers. They must set out events, usually in the order they happened. They must also include any evidence about financial losses and any other remedy the claimant is asking for. If the witness statement refers to a document in the file it should give the page number.
17. At the hearing, the Tribunal will read the witness statements. Witnesses may be asked questions about their statements by the other side and the Tribunal.
18. The claimant and the respondent must send each other copies of all their witness statements by **30 April 2021**.
19. The claimant and the respondent must both bring copies of all the witness statements to the hearing for their own use.
20. At least 7 days before the hearing date the claimant must send an electronic copy of the hearing file and all the witness statements to the Tribunal for the Tribunal to use, sending a copy to the respondent.

Checklist

Date	Order	✓
	Schedule of Loss	
	Respondent's documents	
	Claimant's documents	
	File	
	Witness statements	

Variation of dates

21. The parties may agree to vary a date in any order by up to 3 working days without the Tribunal's permission, but not if this would affect the hearing date.

About these orders

22. These orders were made and explained to the parties at this preliminary hearing. They must be complied with even if this written record of the hearing arrives after the date given in an order for doing something.
23. If any of these orders is not complied with, the Tribunal may: (a) waive or vary the requirement; (b) strike out the claim or the response; (c) bar or restrict participation in the proceedings; and/or (d) award costs in accordance with the Employment Tribunal Rules.
24. Anyone affected by any of these orders may apply for it to be varied, suspended or set aside.

Writing to the Tribunal

25. Whenever they write to the Tribunal, the claimant and the respondent must copy their correspondence to each other.

Useful information

26. All judgments and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.
27. There is information about Employment Tribunal procedures, including case management and preparation, compensation for injury to feelings, and pension loss, here:
<https://www.judiciary.uk/publications/employment-rules-and-legislation-practice-directions/>
28. The Employment Tribunals Rules of Procedure are here:

<https://www.gov.uk/government/publications/employment-tribunal-procedure-rules>

29. You can appeal to the Employment Appeal Tribunal if you think a legal mistake was made in an Employment Tribunal decision. There is more information here: <https://www.gov.uk/appeal-employment-appeal-tribunal>

CASE SUMMARY

30. The claimant was employed by the respondent, as an operations manager, from 15 October 2018 until 13 December 2019. Early conciliation started on 19 December 2019 and ended on 19 January 2020. The claim form was presented on 4 March 2020.
31. The claim is about unpaid wages, unpaid notice pay and unpaid holiday pay. The respondent's defence is that the Claimant was summarily dismissed for gross misconduct, and therefore no entitlement to notice pay rises. The unpaid wages is disputed on the basis that the Claimant failed to prepare a report in an extended period that had been agreed for a handover. The Respondent relies upon a contractual term that provides for only £1 being due for accrued holiday pay.

The Issues

32. The issues the Tribunal will decide are set out below.

1. **Wrongful dismissal / Notice pay**

- 1.1 Was the claimant guilty of gross misconduct? i.e. did the claimant do something so serious that the respondent was entitled to dismiss without notice?

2. **Holiday Pay (Working Time Regulations 1998)**

- 2.1 Did the respondent fail to pay the claimant for annual leave the claimant had accrued but not taken when their employment ended?
- 2.2 Can the respondent rely on a contractual term that only £1 holiday pay is due? (Can a contractual provision override any entitlement to payment of accrued annual leave under the Working Time Regulations 1998?)

3. **Unauthorised deductions**

- 3.1 Were the wages paid to the claimant on less than the wages he should have been paid?
- 3.2 Was any deduction required or authorised by statute?

- 3.3 Was any deduction required or authorised by a written term of the contract?
- 3.4 Did the claimant have a copy of the contract or written notice of the contract term before the deduction was made?
- 3.5 Did the claimant agree in writing to the deduction before it was made?
- 3.6 How much is the claimant owed?

4. Remedy

- 4.1 How much should the claimant be awarded?

Employment Judge Adkin

26.2.21

Sent to the parties on:

02/03/21.

For the Tribunal Office: