



EMPLOYMENT TRIBUNALS

Claimant: Mr A Muse

First Respondent: BNBUDU Limited trading as Buddha-Bar Restaurant

Second Respondent: UKRO Limited

Heard at: London Central by video (CVP)

On: 21 January 2020

Before: Employment Judge E Burns (sitting alone)

Appearances:

For the Claimant: Mr M Kutty (Legal Assistant)

For the Respondents: Did not appear

JUDGMENT

1. The claimant is employed as a member of Kitchen Staff at the Buddha-Bar restaurant. He has worked there since 10 September 2018. I was provided with a letter dated 17 May 2019 confirming this on letterhead form the Buddha-bar Restaurant London.
2. The corporate vehicle that was initially used to employ the claimant was a company called BNBUDU Limited, company number 09869587. According to the Companies House website, that company went into a creditors' voluntary liquidated on 20 February 2020. At around the same time, the claimant started to receive payslips with the name UKRO Ltd on them and his P60 was issued in this name. UKRO Limited has company number 12087365. The registered address of UKRO Ltd is the address of the restaurant. I note that both companies had the same individual as a director. I find that the claimant's employment transferred to UKRO Ltd on or around 20 February 2020.
3. I also find that the claimant is still employed. UKRO Ltd have not terminated his employment and appear to have confirmed to the Department of Work and Pensions that he is still employed when he has tried to claim universal credit.
4. The claimant has issued two claims, the first on 28 July 2020 against Buddha-Bar Restaurant and the second on 2 November 2020 against

UKRO Ltd. I have consolidated the two claims. Neither respondent has filed an ET3. The tribunal has, in addition to serving the claim forms by post, emailed the claims to the email address info@buddhabarlondon.com

5. The claimant was placed on furlough by the respondent with effect from 19 March 2020. I notice that the scheme was announced on 20 March 2020. It took a little time for employers to process claims for furlough payments.
6. Having considered the documentation provided by the claimant, I am satisfied that the second respondent has not paid the claimant the correct amount in furlough pay for the reasons set out below.
7. The claimant was paid fortnightly in arrears. He provided a payslip from 2 June 2019 which he says is a typical payslip showing his average earnings in a fortnight. This appears to be the case based on the amounts that were paid into his bank account in 2019. His hours on the payslip are shown as 113.5 with an hourly rate of £8.21. The gross amount is £931.83 and the net amount £742.06.
8. The furlough scheme is intended to provide a payment of 80% of wages. The claimant should have been, and should still be, receiving 80% of his net wages. I calculate this to mean he should have received £745.47 gross and £593.65 net fortnightly.
9. The claimant received the following payments into his bank account:

3 April - £436.65
13 May - £232.75
14 May - £232.75
3 June - £232.75
18 June - £232.75
4 July - £232.75
22 July - £232.75

Total = £1833.15
10. I have seen corresponding payslips dated 4 April, 18 April, 2 May, 30 May, 13 June. The payslip dated 4 April is a standard payslip with deductions for tax, national insurance and pension contributions. IT gives a gross figure of £463.87. The payslips from 13 May onwards show a single figure said to be furlough payments with no deductions. It is unclear why no deductions have been made as furlough payments are subject to deductions in the normal way. The total gross payments he has received is therefore (£463.87 plus 6 x £232.75) = £1860.37
11. I calculate that the claimant should have been paid gross payments of £745.47 on or around the following dates: 3 and 17 April; 1, 15 and 20 May; 12 and 26 June; 3, 17 and 31 July; 14 and 28 August; 11 and 25 September; 9 and 23 October; 6 and 20 November; 4 and 18 December 2020 and 1 and 15 January 2021. This is 22 payments x £745.47 = £16,400.34. He has only

been paid £1,860.37 and is due to receive the difference (subject to appropriate deductions). This comes to £14,539.97 gross.

12. The tribunal orders the second respondent to pay **£14,539.97** less any required deductions, to the claimant, within 14 days of the date of this judgment.

**Employment Judge E Burns
21 January 2021**

Sent to the parties on:

29/1/21

.....
For the Tribunals Office