



# THE EMPLOYMENT TRIBUNALS

**BETWEEN**

**Mr William White**

***Claimant***

**AND**

**Capital Asset Partners Ltd**

***Respondent***

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

**REGION:** London Central

**ON:** 21 January 2021

**EMPLOYMENT JUDGE:** Mr Paul Stewart

**MEMBERS:** sitting alone

### ***Appearances:***

**For Claimant:** in person

**For Respondent:** did not appear and was not represented

### **JUDGMENT**

It is ordered that the Respondent do pay to the Claimant:

- a) In respect of arrears of pay, such sum as remains after deduction of Income Tax and National Insurance from the gross sum of £6,128.57,
- b) In respect of holiday pay, such sum as remains after deduction of Income Tax and National Insurance from the gross sum of £792.19, and
- c) A statutory redundancy payment of £4,387.50.

### **REASONS**

1. The hearing was a remote public hearing, conducted using the cloud video platform (CVP) under rule 46. The tribunal considered it as just and equitable to conduct the hearing in this way.
2. In accordance with Rule 46, the tribunal ensured that members of the public could attend and observe the hearing. This was done via a notice published on Courtserve.net. No members of the public attended.
3. The party attending was able to hear what the tribunal heard. From a technical perspective, there were no difficulties.
4. No requests were made by any members of the public to inspect any witness statements or for any other written materials before the tribunal. The participant was told that it was an offence to record the proceedings.
5. Only the Claimant attended the hearing. He gave evidence of the following:
  - a) He worked as a site supervisor installing fixed school furniture;

- b) He had been employed by a firm called British Thornton from May 2014 until it went into administration in February 2019 whereupon he was TUPE-ed over to the present Respondent.
  - c) In March 2020, he was put on furlough but never received any wages despite being told by the Department of Work and Pensions that their records showed him to have been paid.
  - d) Sometime after March 2020, he was supposed to go to Scotland in the company van that was in his possession to work for the Respondent but he refused as it was expected he should pay for the fuel for the van and then Nichola Sturgeon announced the closure of building sites in Scotland so his potential work in Scotland disappeared. Subsequently, the van was repossessed by the leasing company.
  - e) Because he was not being paid, he found employment with Cardinal Shopfitting Limited and started work with that company on 28 May 2020. Then, on or about 27 June 2020, he received an email from the Respondent announcing he was being made redundant. However, he has not received a redundancy payment. A colleague was given a reference number and told to claim through the government but nought came of this.
  - f) The Claimant understands that the Respondent company has gone into administration.
  - g) He was paid £9.75 per hour. He worked 50 hours plus per week. No overtime was paid, merely the hourly rate. Holiday pay was paid for a 39 hour week.
  - h) Holiday pay was generous within the company with the Claimant being entitled to 5 weeks per year. The holiday year was the calendar year and, when put on furlough on 2 March 2020, he had not taken any holiday.
6. From 2 March to 28 May 2020, the date he started working for Cardinal Shopfitting Limited, is 12.5714286 weeks. Assuming he would have worked 50 hours per week had he been called to do so, the amount of gross pay he has lost would be 12.57 weeks at £487.50 per week which amounts to £6,128.57.
  7. When made redundant at the end of May, he was entitled to 5/12ths of his holiday entitlement which would have been 5 weeks at £380.25 per week which therefore amounts to £792.19.
  8. Finally, his statutory redundancy payment which he had not received amounted for him, a man who throughout his time with the Respondent and its predecessor, had been over the age of 41, to  $1 \frac{1}{2} \times 6 \times £487.50 = £4,387.50$ .
  9. In the course of the hearing, I calculated the redundancy based on the 39 hour week that was used within the company to calculate holiday pay. However, given that his pay varied, the correct method is to take the average of his earnings for the previous 12 weeks which, based on the Claimant's evidence, I have assumed to comprise an average of 50 hours.
  10. Accordingly, I gave judgment in the sums set out above and advised the Claimant to contact the administrator of the company.

Paul Stewart  
**EMPLOYMENT JUDGE**

**On:**

21 January 2021

**DECISION SENT TO THE PARTIES ON**

**2/2/21.....**

**AND ENTERED IN THE REGISTER**

**.....**  
**FOR SECRETARY OF THE TRIBUNALS**