



# EMPLOYMENT TRIBUNALS

BETWEEN

CLAIMANT

RESPONDENT

MR L WATERS

V

KONTOOR SOUTH  
WALES LIMITED

HELD REMOTELY ON: 1 APRIL 2021

BEFORE: EMPLOYMENT JUDGE S POVEY  
(SITTING ALONE)

REPRESENTATION:

FOR THE CLAIMANT:

IN PERSON

FOR THE RESPONDENT:

DID NOT ATTEND

## JUDGMENT

1. The Claimant was dismissed by the Respondent by reason of redundancy on 11 August 2020.
2. By consent, the Respondent owes the Claimant notice pay, holiday pay and a redundancy payment.
3. The Respondent must pay the sum of £8380.08 to the Claimant, made of the following:

	£
3.1. Redundancy payment	2092.80
3.2. Notice pay	2092.80
3.3. Holiday pay	<u>4194.48</u>
Total:	<u>8380.08</u>

## REASONS

1. The Claimant brings claims of unpaid redundancy payment, holiday pay and notice pay against his former employer. He submitted his form ET1 to the Tribunal on 18 October 2020. The Respondent resisted the claims in form ET3 on 8 February 2021.

2. The Claimant was employed by the Respondent as a CNC Operator, from 1 May 2015 until his dismissal by reason of redundancy on 11 August 2020. He worked 40 hours per week at minimum wage. He was 41 at the date of dismissal and had been on sick leave continuously since 2018.
3. By an email to the Tribunal dated 16 March 2021, the Respondent set out terms of settlement between itself and the Claimant. In addition, the Respondent stated that the terms had been agreed to by the Claimant and, as a result, the Respondent would not be attending the hearing on 1 April 2021. Finally, the Respondent asked that payment (which totalled £7736.04) be made in 12 monthly instalments.
4. On 23 March 2021, Judge Jenkins directed the Claimant to confirm that he agreed with the proposed terms of settlement. On 24 March 2021, the Claimant responded to the Tribunal. He did not agree with the terms of settlement, objecting to them on two grounds:
  - 4.1. The calculations were based upon his wages as of 2018.
  - 4.2. He wanted payment in full, not by monthly instalments.
5. Despite being notified that as the terms of settlement were not agreed the hearing would be proceeding, the Respondent did not attend. I heard from the Claimant and although I gave judgment with reasons at the end of the hearing, I agreed to provide summary written reasons to the parties so they had a record of why I had found in favour of the Claimant and ordered the payment of the sums set out above.
6. The Respondent's proposed terms of settlement were as follows:
  - 6.1. Six weeks notice pay of £1879.20 (at £313.20 per week).
  - 6.2. 63.5 days holiday pay, accrued in 2018 (17 days), 2019 (28 days) and 2020 (18.5 days) and calculated at £3977.64 (at £62.64 per day).
  - 6.3. Redundancy payment of £1879.20 (calculated at a weekly wage of £313.20).
7. The applicable national minimum wage hourly rates were £7.83 (2018), £8.21 (2019) and £8.72 (2020). Based upon a 40 hour week, the Claimant's weekly wage for 2018 was £313.20. However, his weekly wage increased by law to £328.40 in 2019 and £348.80 in 2020. To that end, the Claimant was correct – the Respondent's proposal was based upon the Claimant's wages as of 2018.
8. The Claimant agreed with all the other aspects of the calculations – his notice entitlement, his accrued annual leave since 2018 and the redundancy payment multiplier.

9. In my judgment, and based upon the Respondent's original proposals, the Claimant was entitled to a statutory redundancy payment, notice pay equivalent to six weeks and payment in lieu of accrued holiday of 63.5 days. Those figures, in the absence of an agreed sum, had to be based upon the Claimant's actual wages. As the Claimant was paid minimum wage, his wages were set by law (and detailed above).
10. The Claimant was entitled to be paid notice and redundancy payments based upon his wages as of August 2020, when he was dismissed. The applicable weekly wage was £348.80.
11. The Claimant's holiday pay had to be calculated based upon the prevailing daily rate he was entitled to when the holiday entitlement arose. Those daily rates based upon a 40 hour week over five days were £62.64 for 2018 (£7.83 x 8 hours per day), £65.68 for 2019 (£8.21 x 8) and £69.76 for 2020 (£8.72 x 8).
12. On that basis, the Claimant was entitled to the following amounts:
  - 12.1. Redundancy payment of £2092.80 (6 x £348.80).
  - 12.2. Notice payment of £2092.80 (6 x £348.80).
  - 12.3. Holiday pay of £4194.48, as follows:
    - 12.3.1. 2018 - 17 days x £62.64 = £1064.88
    - 12.3.2. 2019 - 28 days x £65.68 = £1839.04
    - 12.3.3. 2020 – 18.5 days x £69.76 = £1290.56
13. I therefore ordered payment in those sums.

14. As I explained to the Claimant, those sums are payable in full by the Respondent. The Tribunal does not have the power to order payments by instalments. If the sums ordered are not paid within a reasonable period, any enforcement of the judgment by the Claimant has to be pursued by an application to the County Court, not the Employment Tribunal. The County Court has the power, upon application by the Respondent, to permit payment of judgment debts by instalments. However, it will be for the Respondent to satisfy the District Judge that instalments are appropriate and the Claimant may be entitled to claim interest on any parts of the judgment which are not paid forthwith.

Order posted to the parties on  
7 April 2021

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**EMPLOYMENT JUDGE S POVEY**  
**Dated: 6 April 2021**

For Secretary of the Tribunals  
Mr N Roche