



EMPLOYMENT TRIBUNALS

Claimant: Mr DJ Cronin

Respondents: (1) Flame Heating Spares Ltd (In Administration)
(2) FHS Stockton Ltd

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

1. The claims against the First Respondent are dismissed.
2. The claim for a statutory redundancy payment against the Second Respondent is well founded and succeeds. The **Second Respondent** is ordered to pay the Claimant the sum of **£1,048.83**.
3. The claim of unlawful deduction of wages (arrears of pay) against the Second Respondent is dismissed upon withdrawal.
4. The Complaint in respect of accrued but untaken holiday pay under Regulation 30 Working Time Regulations is dismissed upon withdrawal.

REASONS

1. The claimant was employed by the Second Respondent as a driver/warehouse operative from 24 July 2017 until 06 March 2020. He presented proceedings against the First Respondent on 14 August 2020. That company was in administration. The Tribunal wrote to the administrators asking if they consented to the proceedings. On 08 December 2020 they said that the First Respondent company had never employed the Claimant and that he had been employed by FHS Stockton Ltd. They have not given permission to pursue any claim against the first respondent. The companies are linked through a Mr John Savage. The First Respondent did not serve a response to the claims. On 19 January the Claimant agreed that the second respondent be added to the proceedings. Proceedings were duly served on the Second Respondent at its registered office but no response was received by the stipulated date, being 01 March 2021.

2. Under rule 21 of the Tribunal Rules of Procedure 2013, where on the expiry of the time limit in rule 16 no response has been presented and no application for a reconsideration is outstanding, an employment Judge shall decide whether on the available material, a determination can properly be made of the claim or part of it. If there is, the judge shall issue a judgment, otherwise a hearing must be fixed before a judge alone. The Tribunal wrote to the Claimant on 05 March 2021 regarding the claims. In his response dated 10 March 2021, he accepted that his complaints in respect of wages and holiday pay were out of time and that he was content for a judgment to be entered in his favour in respect of the claim for a statutory redundancy payment.
3. The Claimant's employment was terminated by reason of redundancy. He had been told that he was entitled to redundancy pay. The amounts he was entitled to were given to him on 24 February 2021 on behalf of the Second Respondent. He was given notice and he worked that notice (expiring on 06 March 2020).
4. I was satisfied as to the correct identity of the employer. At the date of termination of employment, the Claimant's gross weekly pay was £349.61 (confirmed by him in an email to the tribunal on 22 February 2021). The Claimant was employed for two complete years as at the date of termination and for each year worked he was aged over 41. Therefore, his statutory redundancy pay amounts to £1,048.83 (£349.61 x 1.5 x 2).
5. I considered that I had sufficient information to enable me to issue a judgment and was satisfied that the amount claimed was due.

Employment Judge **Sweeney**

Date: 15 March 2021