



## EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4106819/2019

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Held in Glasgow on 21 August 2019

Mr Jim Blair

Claimant  
In Person

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Windowscene Scotland Limited

Respondent

### JUDGMENT OF THE EMPLOYMENT TRIBUNAL

15 The judgment of the Tribunal is that that (1) the claimant was unfairly dismissed and that the respondent shall pay to the claimant a monetary award of £2,829; and (2) the respondent will pay the claimant £1,178 for holidays accrued but not taken on termination of employment.

### REASONS

#### 20 Introduction

1. The claimant sent a claim form to the Tribunal's office claiming unfair dismissal, notice pay and failure to pay holidays accrued but not taken on termination of employment. The respondent did not enter appearance. The parties were sent a notice of hearing.
- 25 2. The claimant attended the hearing and gave evidence. The respondent did not attend.

#### Findings in Fact

3. The Tribunal made the following findings in fact.
4. The respondent employed the claimant from 22 September 2-015 as a Factory  
30 Manager. The claimant was paid £715 gross which is equivalent to £535 net.

**E.T. Z4 (WR)**

5. On 5 March 2019 the claimant was unexpectedly called to a meeting with Mr Bennet and Mr Cunningham at which he was informed that he was being replaced on 11 March 2019 and the claimant was not wanted in the factory when the new employee started. The claimant was being demoted and would earn £290 per week. On 9 March 2019 the claimant the claimant was told that he should take time off as the respondent did not want to pay for not working.
6. Around 13 March 2019 the claimant gave one week's notice of resignation because the respondent was in fundamental breach of contract: the respondent demoted him and reduced his salary. The claimant gave the respondent one week's notice.
7. The claimant did not receive payment for the week's notice. At termination the claimant had accrued but not taken 14.5 days holiday. He did not receive a payment in lieu.
8. The claimant found alternative employment on 25 March 2019. He has an ongoing loss of £35 per week. The claimant has not been in receipt of any benefits.

### Deliberations

9. The Tribunal was satisfied that the claimant was unfairly dismissed. The Tribunal calculated the basic award as 3 weeks' pay at £508 per week (the statutory cap), that is £1,524. For past loss the Tribunal awarded one week's net pay (£535) for the week's notice given by the claimant for which he was not paid and 22 weeks at £35 per week (£770) being the ongoing loss that he suffered to the date of hearing, that is £1,305. The total monetary award is £2,829. The Employment Protection (Recoupment of Jobseekers Allowance and Income Support) Regulations 1996 do not apply.
10. The Tribunal awarded £1,178 being outstanding holiday pay due but not taken on termination: 14.5days x £535 x 52/365.

Employment Judge: Shona Maclean  
Date of Judgment: 21 August 2019  
Entered in register: 28 August 2019  
and copied to parties