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EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr J Davis

Respondent

Corby Renovations Ltd

and

Held by CBP on 2 July 2021

Representation

Claimant:

Mrs Davis

Respondent:

No appearance or
representation

Employment Judge Kurrein

Statement on behalf of the Senior President of Tribunals

This has been a remote hearing that has not objected to by the parties. A face to face hearing was not held because it was not practicable and all issues could be determined in a telephone hearing. The documents that I was referred to are in a bundle of 74 pages, the contents of which I have recorded.

JUDGMENT

- 1 The respondent has made unauthorised deductions from the Claimant's wages and is ordered to compensate him by payment of:
 - 1.1 The sum of £388.76 in respect of underpayment of wages in March 2020;
 - 1.2 The sum of £246.17 in respect of sums deducted in for pension contributions that were not paid to the pension fund.
- 2 The respondent has failed to make payment to the Claimant of accrued but untaken holiday pay and is ordered to compensate the Claimant in the sum of £888.41.
- 3 The respondent failed to give the Claimant notice or payment in lieu of notice and is ordered to compensate the Claimant in the sum of £493.56.
- 4 The Claimant's claim for furlough pay is not well founded and must be dismissed.

REASONS

- 1 This was the full merits hearing of the Claimant's claim presented to the tribunal on 18 June 2020.

2 The Claimant has been very ably represented by his wife, who has prepared the case thoroughly. I had the benefit of a detailed witness statement from the Claimant signed and dated on 28 February 2021.

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3 The Respondent did not appear and was not represented at the hearing. At a previous hearing on 19 February 2021 a Mr Radford, then a director of the Responded, represented it. The respondent now has no directors and has not taken any part in the proceedings, for instance by complying with the case management orders made following that hearing, since that date.

4 In all these circumstances of the case I concluded it was in the interest of justice to proceed with the hearing in the absence of the respondent and or any representative.

5 I read the Claimant's statement and the documents in the bundle.

6 I accepted the evidence of the Claimant that he was initially employed by another company run by Mr Radford, Hire A Hubby (Corby) Limited (since dissolved) and his employment then transferred to the respondent with the TUPE regulations applying.

7 At the end of March 2020 the Claimant was effectively laid off and was not paid the full sums due to him. I accepted that he was owed £388.76 for the work he did that month.

8 The Claimant was promised that he would be paid under the government furlough scheme for April and would receive 80% of his normal pay that month. However, the respondent did not register for that scheme in time. As a consequence the Claimant was not paid at all in April. That was a repudiatory breach of contract that the claimant accepted by taking work elsewhere. He was not given notice as and is entitled to one week's notice pay which I calculate in the sum of £493.56.

9 At the date of his dismissal the claimant had accrued 9 days holiday pay which I have accepted as calculated by the claimant in the sum of £888.41.

10 Mrs Davis accepted before me that the Claimant had not done any work in the course of April and in those circumstances I cannot order that the respondent pay him for that month. Similarly, as the respondent did not register for the furlough scheme the claimant is not entitled to be paid under it.

2nd July 2021

Employment Judge Kurrein

Sent to the parties and

entered in the Register on 26 :07 :2021

THY.....

For the Tribunal

Public access to employment tribunal decisions Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.