



THE EMPLOYMENT TRIBUNALS

Claimant: Miss Melanie Patterson
Respondent: Mr Brian Penfold
Heard at: Newcastle upon Tyne Hearing Centre
On: Thursday 29th July 2021
Before: Employment Judge Johnson

Members:

Representation:

Claimant: In Person
Respondent: No attendance no appearance

JUDGMENT

1. The claimant's complaint of breach of contract (failure to pay notice pay) is dismissed upon withdrawal by the claimant.
2. The claimant's complaint of unauthorised deduction from wages (unpaid statutory sick pay) is dismissed upon withdrawal by the claimant.
3. The claimant's complaint of unauthorised deduction from wages (failure to pay accrued holiday pay) is well-founded and succeeds. The respondent is ordered to pay to the claimant the net sum of £226.72 in respect of unpaid holiday pay.

REASONS

1. This matter came before me this morning for consideration of the claimant's claims of breach of contract (failure to pay notice pay), unauthorised deduction from wages (failure to pay statutory sick pay) and unauthorised deduction from wages (failure to pay accrued holiday pay).
2. The claimant attended in person. The respondent (who has not entered a response) did not attend and was not represented.

3. By a claim form presented on 16th February 2021, the claimant brought complaints of failure to make a redundancy payment, failure to pay notice pay, unauthorised deduction from wages in respect of unpaid statutory sick pay and unauthorised deduction from wages in respect of unpaid holiday pay.
4. The claim form and accompanying documents were served upon the respondent, but the respondent has failed to enter a response. By judgment promulgated on 25th May 2021 pursuant to Rule 21 of the Employment Tribunals (Constitution and Rules of Procedure) Rules 2013, Employment Judge Arullendran granted judgment on liability in respect of the claims for notice pay, unpaid wages and unpaid holiday pay. The claim for a redundancy payment was dismissed as the claimant did not have the necessary two years qualifying service.
5. Today's hearing was arranged to enable the tribunal to calculate any sums which may be payable to the claimant in respect of the remaining claims. The tribunal file shows that Mr Penfold, the respondent, contacted the tribunal by telephone yesterday, enquiring as to whether he would be entitled to attend today's hearing. He was told that he could do so, but did not attend this morning.
6. Miss Melanie Patterson confirmed under oath that she has in fact received her notice pay and unpaid statutory sick pay. Miss Patterson agreed to her claim for a remedy in respect of those claims being dismissed upon withdrawal. I so order.
7. Miss Patterson confirmed that she has still not received her unpaid holiday pay in the sum of £226.72. Miss Patterson explained that her former employer, the respondent, had deducted that sum from her final wages on the basis that he was entitled to do so as that was the difference between what the claimant was owed, and what he had received from the government under the job retention scheme. I am satisfied that the respondent was not entitled to make that deduction. I award the claimant the sum of £226.72, being holiday pay unlawfully deducted from her final wages.

AUTHORISED BY EMPLOYMENT JUDGE JOHNSON

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON 5 AUGUST 2021**

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