



EMPLOYMENT TRIBUNALS

Claimant: Mr Klonowski

Respondent: Ms Al-Shather

Heard at: Cardiff **On:** 19th November 2020

Before: Employment Judge Howden-Evans

Representation

Claimant: No attendance

Respondent: In person

JUDGMENT

Having considered the documents and written accounts provided by both parties, the Employment Judge's decision is:

1. The Claimant is owed £99.78 by way of notice pay
2. The Claimant is owed £13.14 by way of holiday pay.
3. The total amount owed by the Respondent to the Claimant is **£112.92**

REASONS

1. This video hearing had been listed to start at 10.00am, with a time estimate of one day. Upon there being no attendance by or on behalf of the Claimant, I made enquiries and no telephone message or email had been received from the Claimant. I adjourned the hearing for 2 hours to see whether we could contact the Claimant. I used the time to read the documents provided by both parties. At 12.00 when we had not been able to speak to the Claimant and had not received any response to emails, I decided to proceed in the absence of the Claimant. Rule 47 Employment Tribunal Rules 2013 provides that a judge can dismiss the claim or proceed with the hearing in the absence of a party. The Respondent had taken a day's holiday to be able to attend the hearing and the issues I had to determine were all based upon documentary evidence, so I decided it would further the overriding objective (ie deal with the case fairly and justly) if I determined the case on the basis of the documents in front of me. Rule 71 provides the Claimant with the ability to apply for this judgment to be reconsidered.

If the Claimant wishes to make such an application, he should write to the Tribunal within 14 days of receiving this Order, explaining why he did not attend this hearing and why it is in the interest of justice for this Judgment to be reconsidered.

2. The first issue I had to determine was whether the Claimant was entitled to one or four weeks of notice pay. I found that the terms contained in the Claimant's written contract were applicable to the situation. The Claimant's text of 2nd May 2020 had indicated he was resigning with notice. The contract provided he should give 4 weeks' notice of resignation.
3. The terms of the contract provided the Respondent could terminate the Claimant's contract with one week's notice. I found that the Respondent's response to the Claimant's text had effectively terminated the contract with one week's notice, which meant the Claimant was entitled to one week's notice pay.
4. When I considered how the notice pay should be calculated, I found the Respondent should have paid the Claimant his usual hourly rate (rather than a reduced amount under the furlough scheme) and the Claimant should have been paid for 25 hours as he was averaging 25 hours work per week, in the weeks prior to being furloughed. I calculated the Claimant was due £218 in notice pay and had only received £118.22, which meant the Claimant is owed £99.78 notice pay.
5. I then turned to consider the Claimant's holiday pay claim. The Respondent's holiday year started on 1st April 2020. The Claimant's dismissal took effect on 9th May 2020, so 6 weeks of the holiday year had elapsed at the point the Claimant's employment ceased. As the Claimant's contract provided he worked 18 hours per week, and his statutory holiday entitlement is 5.6 weeks' paid holiday per year, I calculated the Claimant had accrued 11.6 hours of holiday at the point his contract ceased. The Respondent admitted the Claimant had not taken any holiday during the current holiday year. The Claimant was entitled to receive £95.24 holiday pay and had only been paid £82.10 which left £13.14 outstanding.
6. I could not see that the Claimant was owed any money in unpaid wages.

Employment Judge Howden-Evans

Date 19th November 2020

JUDGMENT & REASONS SENT TO THE PARTIES ON 20 November 2020

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FOR THE TRIBUNAL OFFICE