



EMPLOYMENT TRIBUNALS

Claimant: Mrs C Nield
Respondent: Pie and Peas Ltd

Heard at: Manchester (by CVP)

On: 2 November 2021

Before: Employment Judge McDonald
(sitting alone)

REPRESENTATION:

Claimant: Not present or represented
Respondent: Not present or represented

JUDGMENT

1. The claimant's claim for holiday pay is dismissed under Rule 47 of the Employment Tribunal Rules of Procedure 2013 by reason of her non-attendance at the hearing.
2. For the avoidance of doubt, the dismissal of the claimant's holiday pay claim does not affect the judgment made in her favour dated 16 October 2020 relating to an unauthorised deduction from her wages of £786.27.

REASONS

1. The claimant lodged an Employment Tribunal claim on 2 June 2020. She complained that the respondent had unlawfully deducted £786.27 from her wages. Her claim form also said she was owed holiday pay but gave no details about how much holiday pay she said she was owed.
2. The respondent did not respond to the claim. On 16 October 2020 Employment Judge Batten gave judgment under rule 21 of the Employment Tribunal Rules 2013 ("the ET Rules") ordering that the respondent pay the claimant the gross sum of £786.27 unlawfully deducted from her wages. The judgment also said that the respondent had failed to pay the claimant's holiday entitlement. Because the claimant had not provided details of the amount of holiday pay owed, a remedy hearing was listed to quantify the claim, i.e. to decide how much was owed.
3. That remedy hearing was listed for 20 September 2021. The parties were sent a notice of that hearing on 12 February 2021. That hearing was postponed and on

13 October 2021 the Tribunal sent the parties notice that the remedy hearing would be heard today, 2 November 2021 at 10.00 a.m.

4. Unfortunately, I had been listed to hear another case at 10. a.m. which meant the hearing had to be postponed to 12 noon. On 1 November 2021 the Tribunal telephoned the claimant to alert her to this change of hearing time. A message about the change of time was left. Because it was not certain whether the claimant had received that message the Tribunal clerk for the case attended the CVP hearing at 10.00 a.m. today. The claimant did not join the hearing at that time. The clerk attempted to telephone her on the number on the Tribunal file but it went through to answerphone. The clerk also emailed the claimant with details of the change in time and a link to join the CVP hearing.

5. The claimant did not attend the hearing at 12 noon. She has not provided a bundle of documents for the hearing as required by the notice of hearing nor had there been any recent contact from her.

6. Rule 47 of the ET Rules permits a Tribunal to dismiss a claim or proceed with a hearing in the absence of a party if a party fails to attend or be represented at a hearing. Before doing so, the Tribunal is required to consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.

7. The Tribunal had no information about the reason for the claimant's non-attendance. I am satisfied that she had notice of the hearing today. I am also satisfied that the claimant did not attend at the wrong time (i.e. the originally listed 10.00 a.m. time rather than 12 noon). I have considered whether it is in the interests of justice to dismiss the claim or proceed in the claimant's absence.

8. I have decided the appropriate course of action is to dismiss the claim. The claimant has not provided any information about the holiday pay to which she says she was entitled. There is therefore no evidence before me about the claimant's holiday pay entitlement or how much holiday she has already taken. In the absence of that I am not able to quantify her claim. There is no explanation for the claimant's non-attendance.

9. For the avoidance of doubt, the dismissal of the claimant's holiday pay claim does not affect the judgment made in her favour dated 16 October 2020 relating to an unauthorised deduction from her wages of £786.27.

10. In the circumstances the claim is dismissed under rule 47 for non-attendance at this hearing. It is open to the claimant to apply for reconsideration of this Judgment within 14 days of the date the Judgment is sent to the parties if there is some reason why it is necessary in the interests of justice for the Judgment to be reconsidered.

Employment Judge McDonald

Date 2 November 2021

JUDGMENT AND REASONS
SENT TO THE PARTIES ON

5 November 2021

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