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EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4111381/2021

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Hearing Held via Cloud Video Platform (CVP) on 30 November 2021

Employment Judge Murphy

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Mr S Carson

**Claimant
represented by
Ms C Carson,
Lay Representative**

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Ochil View Home Improvements Ltd

**Respondent
Not present
Not represented**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Tribunal is that:

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(i) the claimant was dismissed on 14 May 2021 by reason of redundancy and is entitled to a statutory redundancy payment. The respondent shall pay to the claimant ONE THOUSAND FIVE HUNDRED AND FIFTY-SEVEN POUNDS STERLING (**£1,557**); and

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(ii) the claimant's claim for an unauthorised deduction from wages in respect of accrued untaken holiday pay is dismissed. The Tribunal, having determined that the claimant lodged his complaint out of time and not being satisfied that it was not reasonably practicable to lodge it in time, has no jurisdiction to hear the complaint.

REASONS

Issues

1. The claimant has presented a claim for a statutory redundancy payment and for unauthorised deductions from his wages in respect of accrued untaken holidays as at the termination of his employment. The respondent entered no response and was not present or represented at the hearing. A Notice of the Hearing was sent to the respondent on 21 September 2021. Having considered all information available to the Tribunal, it was determined to proceed with the hearing in the absence of the respondent pursuant to Rule 47 of the Employment Tribunal Rules 2013. No enquiries were practicable on the morning, the respondent not having provided an email address or phone number.
2. The hearing took place on 30 November 2021 via cloud video conferencing, there being no objection to this format by the claimant. During the preliminaries it was identified that the claim for unauthorised deductions was, on the face of it, out of time. The claimant's representative clarified that the claimant's last pay from which a deduction was made was paid on 14 May 2021. The normal time limit, therefore, expired on 13 August 2021. The claimant initiated the Early Conciliation process with ACAS on 30 August 2021.
3. In the circumstances, it was confirmed that the hearing would consider the preliminary issue of whether the unauthorised deduction of wages claim was time barred as well as the substantive claim for a statutory redundancy payment (for which no time bar issue arises).
4. Oral reasons were given at the hearing. Written reasons will not be provided unless they are asked for by a party within 14 days of the sending of this written record of the decision.

Employment Judge: L Murphy
Date of Judgment: 30 November 2021
Entered in register: 02 December 2021
and copied to parties