



EMPLOYMENT TRIBUNALS

Claimants: (1) Mr C Millward
(2) Mr N Millward

Respondent: Castleman EV Ltd

RECORD OF A PRELIMINARY HEARING

Heard at: Bristol (in public, by telephone) **On:** 13 January 2022

Before: Employment Judge Livesey

Appearances

For the Claimants: Mrs Millward, wife and mother to the Claimants respectively
For the Respondent: Did not attend

JUDGMENT

The First Claimant (Mr C Millward)

1. The Respondent made unauthorised deductions from the Claimant's wages and is ordered to pay him the gross sum of **£2,913.82**, comprising the following elements;
 - (i) £177.82; underpayment for the month of December 2020;
 - (ii) £1,680; wages for the entire month of January 2021 (£14/hr x 120 hrs);
 - (iii) £1,056; underpayments of £2/hr for the months of October, November and December 2020 when the Claimant was moved to a different site and paid at £2/hr less than the rate accepted in his offer letter.
2. The Claimant was dismissed in breach of contract in respect of notice and the Respondent is ordered to pay damages to him in the net sum of **£435.50** representing one week's pay.
3. The Respondent has failed to pay the Claimant's holiday entitlement and is ordered to pay him the sum of **£1,220.80** representing 95.2 hours.
4. At the date that proceedings were begun, the Respondent was in breach of its duty under section 1 of the Employment Rights Act 1996 in that it failed to provide the Claimant with written particulars of his employment. It is just and equitable to award the Claimant the further sum of **£1,680.00**, representing four weeks' pay under section 38 of the Employment Act 2002.
5. The Claimant was unfairly dismissed under s. 104 of the Employment Rights Act 1996 but is not entitled to any separate award in that respect.

6. The Claimant was not provided with itemised pay statements in accordance with section 8 of the Employment Rights Act 1996 but no separate award is made in that respect.

Second Claimant (Mr N Millward)

7. The Respondent made an unauthorised deductions from the Claimant's wages and is ordered to pay him the gross sum of **£914.80**, comprising the following elements;
 - (i) £277.80; underpayment for the month of December 2020;
 - (ii) £509.60; furlough payment for the period between 18 December and 18 January 2021 (£4.55/hr x 35 x 80%);
 - (iii) £127.40; further furlough payment for the period 18th to 23rd of January 2021.
8. The Claimant was unfairly dismissed under s. 104 of the Employment Rights Act 1996 but is not entitled to any separate award in that respect.
9. The Claimant was not provided with itemised pay statements in accordance with section 8 of the Employment Rights Act 1996 but no separate award is made in that respect.

REASONS

The claims

1. By a Claim Form dated 23 April 2021, the Claimants brought the following complaints;
 - 1.1 Unfair dismissal (automatically unfair under s. 104 for having asserted a statutory right);
 - 1.2 Unlawful deductions from wages;
 - 1.3 Unpaid holiday pay;
 - 1.4 Breach of contract relating to notice;
 - 1.5 Failing to provide pay slips and/or written terms and conditions of employment.
2. A second claim was issued on 12 May 2021 with the Second Claimant as the lead Claimant, but in substantially the same form. It was clarified at the hearing, however, that the Second Claimant was not pursuing claims in relation to notice, a failure to provide contract of employment and/or unpaid holiday pay.

Background and the Respondent's involvement

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3. No responses had been received from the Respondent in respect of either claim yet it had been served at its registered Companies House address (236 Kinson Road, Bournemouth BH10 5EP) and appropriate EC Certificates were obtained against the same details. It was also showing as 'active'.
4. The Notice of Hearing which had been sent out in respect of this hearing on 30 November 2021 stated that it was a public preliminary hearing and that the Judge may have considered whether he/she could enter Judgments under rule 21. The Respondent was therefore in breach of rule 16 and the Tribunal had issued an appropriate Notice under rule 21 (3). The Judge was therefore in a position to deal with any aspect of the claims that could have been determined on the information available.

The First Claimant's claim

5. The First Claimant was employed from 7 September 2020 to 23 January 2021 as an Autobody Technician, Panel Beater and Sprayer. He claimed that, as a result of asking for outstanding wages and payslips, he was dismissed.

The Second Claimant's claim

6. The Second Claimant, the First Claimant's son, was employed between 9 November 2020 and 23 January 2021 as an Apprentice Mechanic. He too contended that, since he had raised complaints about the failure to have been supplied with payslips and wages, he was also dismissed.

Determination

7. Details were taken from the Claimants' wife/mother in respect of the claims and the manner in which they had been calculated. The Judge was able to reach a determination of them on the basis of the information supplied, as if it has been supplied in writing upon request. The claims were therefore incapable of being determined and resolved under rule 21 and Judgments were entered, as set out above.

**Employment Judge Livesey
13 January 2022**

Judgment sent to the parties on:
19 January 2022
By Mr J McCormick

For the Tribunal Office