



EMPLOYMENT TRIBUNALS

Claimant: Valentin Todorov
Respondent: Apex Logistics Solutions Ltd (in voluntary liquidation)
Heard at: East London Hearing Centre (by CVP)
On: 4 February 2022
Before: Tribunal Judge D Brannan, acting as an Employment Judge

Representation

Claimant: In person
Respondent: Did not attend

RESERVED JUDGMENT

The respondent has made unauthorised deductions from the claimant's wages and the respondent is order to pay the claimant £1994.68 gross.

The claimant was dismissed in breach of contract in respect of notice and the respondent must pay damages to the claimant of £2500 gross. (Please note that these awards are expressed as a "gross" figure. It appears to the Tribunal (but if in doubt the parties should take independent advice) that income tax and national insurance contributions are payable. If so, provided that the respondent makes appropriate deductions and account to the proper authorities, payment to the claimant of the "net" sum will represent a valid discharge of this judgment.)

REASONS

1. The claimant was employed by the respondent between 23 February 2019 and 26 February 2020 with a gross salary of £30,000 paid monthly.
2. On 6 February 2020 the claimant was denied access to the respondent's premises but he continued to work with David Perry, a director of the Respondent, and was assured he would be paid for this work.

3. On 26 February 2020 the respondent failed to pay the claimant £2500 gross for February 2020 as required under his contract and as stated in a payslip. The claimant took himself at that point to have been dismissed.
4. The respondent issued a P45 to the claimant dated 4 March 2020 saying his last day of employment was 29 February 2020.
5. The claimant was entitled to one month of notice under his contract.
6. The claimant has never been paid his salary for February 2020 or his notice pay.
7. On 23 March 2020 the respondent commenced winding up under a creditors voluntary liquidation. Liquidators were appointed on the same date. Mr Perry remained and remains now a director of the company.
8. On 6 April 2020 the claimant made a claim with the Employment Tribunal for unfair dismissal, redundancy pay, notice pay and unpaid wages. He gave the address of his employer as his normal work address of 1 Grover Walk, Standford-le-Hope, Thurrock, SS17 7LU. The respondent has never responded to the claim.
9. On 22 November 2021 Employment Judge Barrett heard a preliminary hearing in the claim. Judge Barrett gave a detailed written case summary that sets out the procedural history of the claim. Judge Barrett struck out the claims for unfair dismissal and redundancy due to length of service. Judge Barrett also arranged for the records of the respondent to be updated to reflect the liquidation and for the Secretary of State to be invited to participate in the claim because there could be a payment from the National Insurance Fund, under rule 96 of The Employment Tribunals Rules of Procedure 2013.
10. On 2 December 2021 the Insolvency Service emailed the Tribunal, cc'ing the claimant and liquidator, saying it did not wish to be joined as a party as it had received no details or claims relating to the respondent. It advised the claimant to contact the liquidators in order to get the details to begin any claim to the Insolvency Service.
11. At the hearing today I considered whether it was fair on the respondent for me to proceed given the liquidation had begun before the claim had been brought. It was possible that the claim had never come to the attention of the liquidators when it was made. I decided it was fair and in the interests of justice to proceed because the email of 2 December 2021 had attached a copy of the ET1 form and therefore put the liquidators on notice of the claim if Mr Perry had not already made them aware. Furthermore, under a creditors voluntary arrangement there is no restriction on proceedings and Mr Perry remains a director of the respondent and would be able to participate in the proceedings should he wish to.

12. Having considered all the evidence I find the claimant had suffered an unauthorised deduction from wages and breach of contract by failure to give notice as described above.

**Tribunal Judge D Brannan, acting as Employment Judge
Dated: 7 February 2022**