



EMPLOYMENT TRIBUNALS (SCOTLAND)

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**Case No: 4108557/2018 and 4 others (as per attached Schedule)
(Multiple No: 8414)**

Held in Glasgow on 29 August 2018

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Employment Judge: Ms A Jones

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**Miss Aleksandra Dembiec & 4 Others
(As per attached Schedule 8414)**

**Claimants
Represented by:-
Mr Balwierz**

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25 **Solo Famiglia Limited**

**Respondent
Represented by:-
Aldo Carboni -
Director**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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1. The Judgment of the Tribunal is that the claimants' claims are well founded.
 2. The respondent is ordered to make the following payments to each claimant:
 3. In respect of **Ms Dembiec** a redundancy payment of Five **Hundred and Twenty Eight Pounds and Fifty Pence (£528.50)** and outstanding wages
- E.T. Z4 (WR)**

of **One Thousand, Four Hundred and Sixty One Pounds and Twelve Pence £1,461.12** and notice pay of **Five Hundred and Twenty Eight Pounds and Fifty Pence (£528.50) (gross)**;

4. In respect of **Mr Wickham** a redundancy payment of **Two Hundred and Forty Eight Pounds and Seventy Two Pence (£248.72)** and unpaid wages of **Five Hundred and Seventy Two Pounds and Twenty Four Pence (£572.24)** and notice pay of **Two Hundred and Forty Eight Pounds and Seventy Two Pence) £248.72 (gross)**; and
5. In respect of **Mr Balwierz** a redundancy payment of **Nine Hundred and Ninety Seven Pounds and Fifty Pence (£997.50)** and outstanding wages of **One Thousand, Eight Hundred and Seventy Three Pounds and Thirty Four Pence (£1,873.34)** and notice pay of **Nine Hundred and Ninety Seven Pounds and Fifty Pence (£997.50) (gross)**;
6. In respect of **Ms Karsoszka** a redundancy payment of **Nine Hundred and Ninety Pounds (£990)** and unpaid wages of **Two Thousand and Twenty Pounds (£2,020)** and notice pay of **Nine Hundred and Ninety Pounds (£990)**.
7. In respect of **Ms Slomczynska** outstanding wages of **One Thousand, Three Hundred and Twenty Four Pounds and Sixty One Pence (£1,324.61)** and notice pay of **Two Hundred and Forty Six Pounds and Seventy Five Pence £246.75 (gross)**;

REASONS

25 Introduction

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1. The claimants brought claims in similar terms in relation to the termination of their employment with the respondent. The claims were:
- 1) breach of contract for failure to pay notice pay;
 - 2) unlawful deductions from wages and,
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3) claims for redundancy payments in respect of all claimants apart from Ms Slomczynska, who did not have the requisite service.

2. The claims were conjoined by Order dated 22 August 2018. A full hearing was set down to consider the claims. The claimants were represented by one of their number, being Mr Balwierz. The respondent was represented by a director of the company, Mr Carboni. The respondent did not seek to argue either in the response form or before the Tribunal that there was any defence to the claims. The claims were admitted. The respondent's position was that he would like to be able to pay the sums due to the claimants, but he did not have any funds available to allow him to do so. Further, the respondent indicated that there were not sufficient funds available to pay for the company to go through an insolvency procedure.

3. The respondent ceased trading on 6 March 2018 and was unable to give notice of termination of employment to the claimants or pay in lieu of notice entitlements due to the financial difficulties which led to the requirement to cease trading. Further, the respondent was unable to pay outstanding wages including lay off pay, holiday pay entitlements or redundancy payments.

4. Documents were produced to the Tribunal in relation to the amounts each claimant alleged were outstanding. The respondent agreed that the figures in those documents were accurate. Each claimant is entitled to be paid the sums due to them as outlined below.

Calculation of payments due

Aleksandra Dembiec 4108557/2018

5. Ms Dembiec had 2 years' service and an average weekly wage of £264.25. She was entitled to receive a redundancy payment of £528.50. She was also entitled to notice pay of £528.50; holiday pay of 18.56 hours at £7.55 per hour, giving a total of £140.12 (gross); outstanding wages for February

and March 2018, of 88.5 and 69.25 hours respectively, giving a total of £1,191 gross and lay off pay of 5 days at £26 per day, being £130. Therefore, Ms Dembiec was entitled to receive a redundancy payment of £528.50 and outstanding wages of £1,461.12 and notice pay of £528.50 (gross).

Greg Wickham 4108558/2018

6. Mr Wickham had 4 years' service and an average weekly wage of £62.18 and so was entitled to receive a redundancy payment of £248.72. He was also entitled to holiday pay of 4.23 hours at £7.05 per hour, being £29.82 and pay for February and March of 50.5 and 8 hours respectively, giving a total of £412.42 and lay off pay of 5 days at £26 per day, being £130. Therefore, Mr Wickham was entitled to a redundancy payment of £248.72 and unpaid wages of £572.24 and notice pay of £248.72 gross.

Mr Balweirz 4108558/2018

7. Mr Balwierz had 3 years' service and an average weekly wage of £332.50 (gross). On that basis he was entitled to a redundancy payment of £997.50. He was also entitled to 3 weeks' notice pay amounting to £997.50 (gross). He was also entitled to outstanding wages from February and March amounting to 115.2 hours at £9.50 per hour, which is a total of £1,094.40 gross. In addition, he was entitled to be paid 68.31 hours holiday pay giving a total of £648.94 (gross). Finally, he was entitled to 5 days lay off pay at £26 per day, which amounted to £130. Therefore, he was entitled to receive a redundancy payment of £997.50 and outstanding wages £1873.34 and notice pay of £997.50 (gross).

so Ada Karkoszka 4108580/2018

8. Ms Karkoszka had 3 years' service and an average wage of £330 and was entitled to a redundancy payment of £990. The Tribunal was not provided with a breakdown of her outstanding wages, but it was agreed that this

amounted to £1,890 gross and that she was entitled to notice pay of £990 and lay off pay of £130. Therefore she was entitled to a redundancy payment of £990 and unpaid wages £2,020 and notice pay of £990.

5 Weronika Slomczynska 4108561/2018

9. Ms Slomczynska had 1 year's service and therefore was not entitled to a redundancy payment. She was however entitled to a week's notice pay of £246.75; holiday pay of 7.79 hours at £7.05 per hour, giving a total of £54.91; wages for February of 120.75 hours at £851.28, unpaid wages of £288.42 for March and 5 days lay off pay at £26 per day being £130. Therefore, Ms Slomczynska was entitled to a total sum of £1,324.61 in respect of unpaid wages and £246.75 notice pay gross.

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Employment Judge: A Jones
Date of Judgment: 05 October 2018
Entered in register: 11 October 2018
and copied to parties

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Multiple Schedule

Multiple: 8414 - Solo Famiglia Ltd

<i>Case Number</i>	<i>Claimant</i>	<i>Respondent</i>
4108557/2018	Miss Aleksandra Dembiec	Solo Famiglia Ltd
4108558/2018	Mr Greg Wickham	Solo Famiglia Ltd
4108559/2018	Mr Konrad Balwierz	Solo Famiglia Ltd
4108560/2018	Miss Ada Karkoszka	Solo Famiglia Ltd
4108561/2018	Miss Weronika Slomczynska	Solo Famiglia Ltd