



EMPLOYMENT TRIBUNALS

Claimant: Mr. A. Paul
Respondent: Gone for a Burton Ltd (formerly ABC Pub Co Ltd)

JUDGMENT

Rule 21 Employment Tribunal Rules

1. The respondent has failed to file an ET3 Grounds of Resistance in this case.
2. Having considered the ET1, REJ Wade has decided that a determination of the claim can properly be made without a hearing and the Judgment of the Tribunal, made under Rule 21 of the Employment Tribunals (Constitute and Rules of Procedure) Regulations 2013, is as set out below:
3. The respondent has unfairly dismissed the claimant, unlawfully failed to pay him notice pay, holiday pay in lieu and outstanding wages owed to him.
4. The Tribunal orders the respondent to pay the claimant £35,369.31 and to account to HMRC for any tax and national insurance due on this amount. The claimant's schedule of loss is appended to this decision (see Annex 1).
5. The hearing listed for 12th – 13th May 2022 has been vacated and will not take place. The parties should not attend the Tribunal.

Regional Employment Judge Wade
Date: 15th March 2022

JUDGMENT SENT TO THE PARTIES ON

16/03/2022

FOR THE TRIBUNAL OFFICE

ANNEX 1 – Claimant’s Schedule of Loss

IN THE EMPLOYMENT TRIBUNALS

CASE NUMBER:2206658/2021

B E T W E E N:

Aaron Paul

Claimant

and

Gone for a Burton Ltd (formerly ABC Pub Co Ltd) Respondent

**CLAIMANT’S SCHEDULE OF LOSS
AS AT 04 JANUARY 2022**

The Claimant reserves the right to amend the Schedule following responses to the allegations, as part of disclosure, on advice or as further information comes to light.

1. ASSUMPTIONS/KEY INFORMATION

| | |
|--|------------|
| Gross annual basic pay: | £27,869.01 |
| Gross weekly basic pay: | £535.85 |
| Net weekly basic pay: | £429.46 |
| Respondent’s monthly pension contributions: | £54.40 |
| Contractual/Statutory notice period: | 8 weeks |
| Claimant's date of birth: | 22/09/1978 |
| Claimant's age at effective date of termination (EDT): | 43 years |
| Employment start date: | 15/06/2014 |
| Termination date | 07/07/2021 |
| Total continuous service: | 7 years |
| Jobseeker's allowance/income support received: | £0 |
| Net weekly pay (to include benefits) in mitigation: | £0 |

2. NOTICE PAY/ HOLIDAY PAY

The Claimant was not paid his full notice. £3,435.68

The contractual/statutory notice due is 8 weeks net pay.

The Claimant was not paid for holidays that he had accrued from 01/04/2020 to EDT. He is entitled to 28 days holiday per annum and as such accrued 7 days holiday in the 3 months from 01/04/2021 to EDT, as well as 20 days from the previous year which he could carry over pursuant to The Working Time (Coronavirus) Amendment Regulations 2020 (SI 2020/365). In total he is owed 27 days of holiday pay £2894.09

£6,329.77

3. BASIC AWARD

The Claimant earned £535.85 gross per week.

The Claimant worked 7 complete years from age 36 until age 43. The appropriate multiplier is therefor 7.5 weeks.

The basic award is 7.5 weeks x £535.85 =
£4,018.87

**Total basic
award**

£4,018.87

4. UNPAID WAGES

The Claimant was placed on furlough on 31 October 2020 due to the Covid 19 pandemic. He remained on furlough until 7 July 2021 totalling a period of 35 weeks.

To date, the Claimant has not received his pay for the period November 2020 to July 2021. The

Respondent made a series of deductions from the Claimant's pay in that it failed to pay the Claimant his wages during this period. It was the Claimant's understanding that he would be paid 80% of his wages during his furlough period under the Coronavirus Job Retention Scheme (CJRS). The Claimant therefore claims the following:

80% of gross weekly salary = £428.68

£428.68 x 35 weeks unpaid wages = £15,003.80

Total unpaid wages

£15,003.80

5. COMPENSATORY AWARD

The Claimant secured a new job on 08 November 2021 at a rate of pay more favourable than with the Respondent.

Loss from EDT to 08 November 2021

Loss of basic salary (net) (17 weeks from EDT x £429.46):

£7,300.82

Loss of pension (net (17 weeks from EDT x weekly pension of £12.55)

£213.35

Loss of statutory rights:

£500

£8,013.50

Uplift in compensatory award due to Respondents unreasonable failure to comply with Acas code (25% x £8,013.50)

£2003.37

Total compensatory award after uplift

£10,016.87

The following factors are relevant to the issue of mitigation,

- The Claimant was employed in the hospitality sector which had been negatively affected due to Covid 19 which adversely effected the Claimants prospects of securing work.
- The Claimant actively searched for work since the termination of his employment and found alternative employment in November 2021 approximately 4 months later which, in all of the circumstances, he contends is reasonable.

Total financial loss

£35,369.31

Dated 4 January 2022