



EMPLOYMENT TRIBUNALS

Claimant: Mr D Broomhead

Respondent: Morgan's Table Ltd

Heard at: Cardiff, by video **On:** 7 March 2022

Before: Employment Judge S Moore

Representation

Claimant: Did not attend

Respondent: Did not attend

JUDGMENT

The Claimant's claim for unauthorised deduction from wages fails and is dismissed.

REASONS

1. Neither party attended the hearing today. The clerk tried to make contact with both of the parties but with no success. As this was the second hearing the claimant has failed to attend a hearing, and there were documents before me on which I was able to make findings, I decided to proceed in their absence.
2. The ET1 was presented on 1 February 2021. The claimant brought claims of unpaid holiday pay. The claimant had been dismissed for redundancy and the effective date of termination was 16 November 2020.
3. The respondent failed to enter a response. A Rule 21 Judgment was issued on 2 June 2021. This was revoked after reconsideration by Judge Jenkins on 30 November 2021.
4. A hearing took place on 13 January 2022. This was postponed as the claimant failed to attend. Judge Thomas gave permission for the respondent to file a late response.
5. The respondent has sent to the Tribunal copied to the claimant

documentation which demonstrated they had calculated the claimant's annual leave upon his redundancy in accordance with the gov.uk calculator. This provided for a leave date of 16 November 2020. The holiday year ran from 1 April 2020. The claimant worked 46.5 hours per week, 5 days per week. This amounted to 164 hours holiday @ £9 per hour = £1476.00 (gross).

6. I had sight of a payslip dated 11 December 2020 setting out this holiday pay. The gross amount was £1476.00 and the net amount was £1244.04.
7. I had sight of the respondent's bank records which showed a bacs payment to the claimant on 14 December 2020 of £1251.86.
8. I had sight of a payslip dated 13 November 2020 which showed a furlough payment of £1487.85 (gross) and £1251.86 (net). This was paid by bacs on 25 November 2020.
9. Given the two amounts are identical, the claimant's confusion as to whether the respondent had actually paid him two month's salary by way of furlough was understandable. However the documents before me were clear in that the holiday pay was correctly calculated and paid to the claimant as a separate payment to his final salary. If the claimant maintains there has been inappropriate use of furlough he may raise that with HMRC.
10. For these reasons, on the basis of the documents before me, I have decided on the balance of probabilities that the respondent has paid the claimant his outstanding holiday pay on the termination of his employment and I dismiss the claim.

Employment Judge S Moore

Date: 7 March 2022

JUDGMENT SENT TO THE PARTIES ON 8 March 2022

FOR THE TRIBUNAL OFFICE Mr N Roche

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