



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Gabriele Ramos Machado Petriccone v Moura Meat Centre Ltd
(trading as The Brazilian Shop)

Heard at: Watford

On: 2 August 2022

Before: Regional Employment Judge Foxwell

Appearances

For the Claimant: In person

For the Respondent: Not in attendance

JUDGMENT

1. The respondent has made an unauthorised deduction from the claimant's wages and is ordered to pay the Claimant the gross sum of £447.22.
2. The claimant was dismissed in breach of contract in respect of notice and the Respondent is ordered to pay damages to the claimant in the sum of £600.00.
3. The respondent has failed to pay the claimant her holiday entitlement and is ordered to pay the claimant the sum of £3120.00.

REASONS

4. The claimant, Mrs Gabriele Ramos Machado Petriccone, was employed by the respondent at its shop at 673 Seven Sisters Road, London, N15. Her employment began on 10 August 2020 and ended on 9 July 2021 when she was dismissed. Having gone through early conciliation between 22 November 2021 and 7 December 2021, on 13 December 2021 she presented complaints of unfair dismissal, unlawful deduction from wages, failure to pay holiday pay and for notice pay to the Tribunal. The claim of unfair dismissal was subsequently dismissed because the claimant lacked sufficient qualifying service to make such a claim but her remaining claims

have proceeded. The respondent filed a response, signed by one of its directors, Armando Appolonio. Mr Appolonio alleged that the claimant had been summarily dismissed for gross misconduct but did not address the other aspects of her claim, namely the alleged underpayment of wages and holiday pay.

5. The respondent has not attended today's hearing, the start of which was delayed in case a representative was running late.
6. At the start of the hearing I spent some time discussing with the claimant the correct identity of the respondent. She had named the respondent as the "Brazilian Shop Ltd" but there is no such company on the register of companies. I noted, however, that the claimant had been given a pay slip which named her employer as the "Moura Meat Centre Ltd". A company search shows that Mr. Appolonio is a director of that company (which is presently in creditor's voluntary liquidation).
7. A second company emerged of which Mr Appolonio is a director as a part of the search, "Paiquere Import and Export Ltd" which has its registered office at 673 Seven Sisters Road where the claimant worked. This company went into creditor's voluntary liquidation at the same time as The Moura Meat Centre Ltd. Mr Appolonio did not mention either company in the response.
8. On balance I decided that the name given on the payslip was more likely to be the claimant's employer than the second company which had not been identified in any documents. I find that Moura Meat Centre Ltd is the correct identity of the Claimant's employer and "The Brazilian Shop" is simply its trading name. For these reasons, I renamed the respondent as the "Moura Meat Centre Ltd trading as the Brazilian Shop". I dispensed with further service on the respondent as now named because I was satisfied that Mr Appolonio, a director, was aware of these proceedings and this hearing.
9. I turn then to the substance of the claimant's claims. I heard evidence from her which I accepted. She confirmed that her claim for unpaid wages was limited to an underpayment in her final week of work in the sum of £447.22. I accept that evidence and there will be judgement for that amount.
10. By the end of her employment the claimant was paid a daily rate of £120.00 (10 hours at £12.00 per hour). I accept her evidence that she had taken no paid holiday in the eleven months of her employment. This included bank holidays, with the exception of New Year's Day which she took as unpaid leave. I calculate that she is entitled to 26 days' accrued holiday pay at the rate of £120 per day. That comes to a total of £3120.00 and there will be judgement for that sum.
11. Finally, the claimant told me that she was dismissed without notice. The respondent has not proved that it was entitled to dismiss her without notice. In fact, there is nothing in the response to show that this decision was justified. The claimant was entitled to minimum statutory notice of one week. I therefore award five days' pay at £120.00 per day, a total of £600.00 as damages for breach of contract as to notice.

Regional Employment Judge Foxwell

Date: ...3 August 2022.....

30/8/2022

Sent to the parties on:

J Moossavi

.....
For the Tribunal Office