



# EMPLOYMENT TRIBUNALS

London South Employment Tribunal on 8th September 2022

*Claimant*

**Between**

*Respondent*

**Mr Dumitru Mitrica**

**&**

**The Hengist Village Bar and Dining Rooms  
Limited**

**Before**

Judge M Aspinall (Sitting as an Employment Judge)

**Appearances**

Mr Mitrica (Claimant) in person

## FULL MERITS HEARING Judgment

1. Mr Mitrica attended the hearing accompanied, and supported, by his wife Mrs Julie Mitrica. The Respondent did not attend.
2. The notice of hearing was sent to the parties on 26 July 2022 and the time of the hearing was confirmed as 10:00 by email on 7 August 2022.
3. At 19:11 on 5 September 2022, Mr David House - for the Respondent - sent an email to the Tribunal seeking an adjournment to the hearing on the basis that his witness was unavailable and because he was not due back from holiday until late on the evening prior to the hearing. He did not send a copy of this email to the Claimant.
4. On 7 September 2022, Employment Judge Balogun refused the Respondent's application for a postponement on the basis that they had failed to file a response to the claim and did not apply for an extension of time as invited by the Tribunal's letter of 24 May 2022. On that basis, the Judge found, that the Respondent was unable to make an application to postpone or adjourn and would be permitted to participate in the hearing only to any limited extent that the Judge presiding at the hearing allowed.
5. Mr House (for the Respondent) emailed to the Tribunal again at 15:54 on 7 September 2022 and again without copying to the Claimant. In this second email he objected to the time of 10:00 for the hearing, explained that he had meetings with HMRC at that time and would not be home until the early hours of this morning (8 September 2022). He concluded that the short notice was unacceptable.
6. I asked my Clerk to contact the Respondent this morning. She was unable to do so by telephone and received no response to email messages. In the circumstances, where the Respondent had not taken the trouble to respond to the Claim in time (or at all) and had not applied to extend time or provided any evidence at all of anything, I was satisfied that - notice of hearing having been issued 26 July 2022 - the Respondent had been given more than sufficient time to make arrangements to seek extensions of time, make arrangements with others that he would be attending a legal hearing, and ultimately to attend today. That the Respondent made the choice to prioritise a meeting with HMRC over a court hearing was a matter for them.
7. Claims for Unfair Dismissal and Redundancy were struck out at an earlier date by another Judge; the

Claimant had insufficient length of service to bring such claims.

8. Having heard, on oath, from the Claimant **I find that his claims for unpaid wages, holiday pay and notice pay are made out and succeed.**
9. The Respondent shall, forthwith, pay **£3,048.00** to the Claimant; made up as follows:
  - Unpaid wages (98 hours at £12 per hour between 24/10 and 19/11/2021): £1,176.00 gross
  - Holiday pay (2.9 weeks at an average of 40 hours per week at £12 per hour): £1,392.00 gross
  - Notice pay (Statutory notice of 1 week at an average of 40 hours per week at £12 per hour): £480.00 gross

## **Judge M Aspinall on Thursday, 8th September 2022**

### Note

Reasons for this judgment having been given orally at the hearing, written reasons will not be provided unless they are requested - by either party - within 14 days of this notice.

### **PUBLIC ACCESS TO EMPLOYMENT TRIBUNAL DECISIONS**

Judgments and reasons for judgments of the Employment Tribunal are published in full. These can be found online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the parties in a case.