



# EMPLOYMENT TRIBUNALS

## FINAL HEARING

**Claimant:** Mr F Killen

**Respondent:** Abbey Joinery and Manufacture Limited

**Heard at:** Newcastle (remotely in private by video)      **On:** 16 September 2022

**Before:** Employment Judge Shore

### Appearances

For the claimant:

In person

For the respondent:

Mrs L Ellerton-Goldsmith, Director

## JUDGMENT

1. The correct name of the respondent is Abbey Joinery and Manufacture Limited. The Tribunal's records will be amended accordingly.
2. The claimant's claim of unfair dismissal is dismissed upon withdrawal.
3. The claimant's claim of failure to pay holiday pay is dismissed upon withdrawal.
4. The claimant's claims of unauthorised deduction of wages are determined as follows:
  - 4.1. The claimant's claim for 104 hours of overtime worked in September and October 2021 fails;
  - 4.2. The claimant's claim for 24 hours of overtime worked in October 2021 fails;
  - 4.3. The claimant's claim for pay for 13 October 2021 fails;
  - 4.4. The claimant's claim for wages for 56 hours' work between 17 November 2021 to 30 November 2021 succeeds, subject to credit for the two days' (16 hours) pay he was paid for 29 and 30 November and the SSP he was paid for the period between 17 November and 28 November inclusive. It was agreed that the claimant was paid for 29 and 30 November, so the successful claim is for 40 hours pay less the SSP paid; and

- 4.5. The claimant did not resign was not dismissed from the respondent's employment until 22 April 2022. He was certified as unfit to work from 21 January 2022 to 30 April 2022, so was entitled to Statutory Sick Pay for the period 21 January 2022 to 22 April 2022.
5. The claimant worked a 5-day week and was paid £134.62 (gross) per day or £16.83 (gross) per hour. The rate of SSP from 6 April 2021 to 5 April 2022 was £96.35 per week, or £19.27 per day. The rate of SSP from 6 April 2022 was £99.35 per week or £19.87 per day.
6. In respect of the successful claim set out at paragraph 3.4 above, the respondent shall pay the claimant for work done on 17, 18, 19, 22, 23, 24, 25 and 26 November is 40 hours at £16.83 per hour = £673.20. From that sum has to be deducted 8 days' SSP: 8 x £19.27 = £154.16. The balance due to the claimant is £673.20 - £154.16 = **£519.04** (gross).
7. In respect of the successful claim set out at paragraph 3.5 above, the claimant is entitled to SSP at £19.27 per day from 21 January 2022 to 5 April 2022. That is 52 days at £19.27 = **£1,002.04** (gross). For the period 6 April 2022 to 22 April 2022, that is 13 days at £19.87 per day = **£258.31** (gross). The total payable in sick pay is £1,002.04 + £258.31 = **£1,260.35** (gross).
8. The total payable by the respondent to the claimant is £519.04 (gross) + £1,260.35 (gross) = **£1,779.39** (gross).

**Employment Judge Shore**

**Date 16 September 2022**

**Note**

**Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.**

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