



EMPLOYMENT TRIBUNALS

Claimant: Mr E Williams
Respondent: Old McMillan Company Limited
Heard at: Remotely by Cloud Video Platform (CVP)
On: 10th June 2022
Before: Employment Judge Lambert

Representation

Claimant: Did not attend
Respondent: Mr Cosgrove, General Manager

JUDGMENT

1. The complaints of failure to pay notice pay; wages for February 2022 and holiday pay are not well founded and are dismissed.

REASONS

1. At the outset of the hearing, the Respondent's representative appeared via telephone. The Claimant did not attend. I directed the video clerk to make enquiries of the Claimant. The Claimant suggested to the clerk that he had not received notice of the hearing. From the file, I could see that the Case Management Order was sent to the parties on 16th March 2022. I checked the email address from the email with that set out on the Claim Form and confirmed they were the same. I was satisfied that the Claimant had received notice.
2. I requested the clerk to contact the Claimant to ascertain whether he would attend the hearing, or at least attend to make an application for postponement. The clerk informed me after a short period that he had spoken with the Claimant and he had declined to attend.
3. The Respondent's representative confirmed that he wanted to proceed with the hearing today because this case had been adjourned once from March 2022 and it was prejudicial to the Respondent Company to have any further delay.

4. I was satisfied that suitable enquiries had been made under Rule 47 of the Employment Tribunal rules of procedure and, in accordance with over-riding objective, it was appropriate to proceed with the case in order to deal with this case in a proportionate manner to the complexity and importance of this issues; to avoid delay and to save expense.
5. On hearing the Respondent's uncontested evidence, I made the following findings of fact relevant to each claim:

Notice Pay

Facts

- a. The Claimant was employed by the Respondent until he left by resignation with immediate effect on 28th February 2021 (*"the Termination Date"*).
- b. The Claimant had received payment up until the Termination Date.

Finding

- c. The Claimant was not entitled to any notice pay.

Wages for February 2021

Facts

- d. The Respondent produced a wage slip showing payment of wages for February 2021.

Finding

- e. The Claimant received payment for February 2021.

Holiday Pay

Facts

- f. The Respondent's evidence was that from the dates the Claimant worked, he was entitled to 13 days' pay. The Respondent confirmed that the Claimant had taken a period of between 20th October 2021 and 4th November 2021 as holiday. This extinguished any entitlement.

Finding

- g. The Claimant was not entitled to any payment for accrued but untaken annual leave.

Conclusion

6. All of the claims raised by the claimant are not well founded and will be dismissed.

Employment Judge Lambert

Date: 10th June 2022

Judgment sent to the parties: 22 June 2022

FOR THE TRIBUNAL OFFICE