



EMPLOYMENT TRIBUNALS

Claimant: Mr Peter Cavill
Respondent: Keepout Limited (in liquidation)
Heard at: East London Hearing Centre (by Cloud Video Platform)
On: 15 March 2023
Before: Employment Judge B Elgot

Representation

Claimant: In person and in writing
Respondent: Did not enter a response, did not appear and was not represented

This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was by Cloud Video Platform. A face to face hearing was not held because the relevant matters could be determined in a remote hearing.

The liquidators are FRP Advisory Trading Ltd, 4 Beaconsfield Road, St Albans, AL1 3 RD. There are nil estimated total assets available for preferential creditors as stated in the Statement of Affairs as at 9 January 2023.

JUDGMENT

1. The claim for unpaid wages SUCCEEDS. The Claimant was employed as a window fabricator and installer from 8 May 2018 until 29 August 2022 and was paid £3962 gross per month which is £2933 net. The weekly gross wage is £914.30 (£676.84 net pw)
2. He was not paid for the month of August 2022 and is therefore entitled to **£3962** unpaid wages, calculated gross. This amount must be paid by the Respondent to the Claimant within 14 days.
3. The claim for accrued and unpaid holiday pay SUCCEEDS. The Claimant says he is entitled to 28 days holiday per annum inclusive of the 8 days paid bank holidays. The leave year runs from 6 April of each year. In the leave year from 6 April 2022 until the end of his employment on 29 August 2022 the Claimant agrees that he had five days

paid holiday (he does not work weekends) on 18 – 22 April and on 6 June 2022. He took bank holidays on 15 April, 2 May, 2 June 2022. This is a total of 9 days. In the relevant period his accrued entitlement is 9.3 days rounded up to 9.5 days. He is entitled to 0.5 days unpaid holiday which is **£91.43** calculated gross. This amount must be paid to the Claimant by the Respondent within 14 days.

4. The Claimant was dismissed on 29 August 2022 by reason of redundancy. He is entitled to a redundancy payment (subject to the statutory cap on a maximum week's wage which is £571) in the amount of **£2284**. The relevant multiplier is 4.
5. The Claimant's claim for unpaid notice pay SUCCEEDS. He has a contractual entitlement to four weeks' notice pay which is calculated gross; based on his annual salary of £47,544 his gross weekly earnings are £914.30 x 4 = **£3657.23**.
6. The complaint of unfair dismissal SUCCEEDS. The Claimant was unfairly dismissed on 29 August 2022 having had no warning of, or consultation in respect of, his redundancy. No steps were taken to find him alternative employment. He was unemployed and did not earn any wages or salary until mid-December 2022 and he applied for and received no state benefits. I am satisfied that he then reasonably took steps to mitigate his loss by obtaining some temporary earnings from mid- December 2022 to 25 January 2023.

His immediate financial losses are therefore four months' wages calculated net from 29 August 2022 to 25 January 2023. There is no pension loss.

This is £2933 x 4 = £11,732

He has been awarded 4 weeks' notice pay as calculated above and this cannot be double counted, therefore I have deducted £3657.23 = £8074.77

Less temporary earnings of £2750. £5,324.77

The total for financial loss is £5,324.77

7. On 25 January 2023 the Claimant began new permanent employment at a higher wage. There is therefore no continuing future loss after that date.
8. The Claimant is entitled to be paid compensation for unfair dismissal calculated as follows:-
 - i) Basic award - this is already awarded as a redundancy payment as calculated above and is therefore **nil**.
 - ii) Compensatory award for immediate loss of wages as calculated in paragraph 6 above. **£5324.77**
9. The grand total payable by the Respondent to the Claimant within 14 days is **£15,319.43** (3962+91.43+2284+3657.23+5324.77).
10. The Claimant has already received certain sums from the Insolvency Service (Redundancy Payments Office) which are as follows :-

Redundancy payment £ 2284

Arrears of pay 1-30 August 2022

£ 1864.72

Employment Judge B Elgot
Dated: 22 March 2023