



EMPLOYMENT TRIBUNALS

Claimant: Mr S Kennedy

Respondent: Cook and Turnbull Contractors Ltd

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

The judgment of the Tribunal is that:

1. The complaint in respect of a statutory redundancy payment under section 163 Employment Rights Act 1996 is well founded and succeeds. The Respondent is ordered to pay to the Claimant a redundancy payment in the sum of **£1,521**.
2. The complaint in respect of accrued but untaken holiday pay under Regulation 30 Working Time Regulations is well founded and succeeds. The Respondent is ordered to pay to the Claimant the sum of **£101.40**.
3. The complaint of unlawful deduction of wages is well founded and succeeds. The Respondent is ordered to pay the Claimant the gross amount of **£101.40**.
4. The complaint of breach of contract in respect of the failure to give 5 weeks' notice is well founded and succeeds. The Respondent is ordered to pay to the Claimant damages in the sum of **£536.24**.
5. The total amount to be paid to the Claimant is **£2,260.04**.
6. The Hearing on 19th April 2023 is vacated.

REASONS

1. The Claimant was employed by the Respondent from **11 February 2019 to 05 December 2022** when he was dismissed without notice by reason of redundancy. On **14 February 2023**, the Claimant presented a Claim Form to the Tribunal in which he claimed a redundancy payment, damages for wrongful dismissal (notice pay), outstanding holiday pay and arrears of pay.

2. The proceedings were served on the Respondent at its registered office with a response date of **21 March 2023**. However, no response was returned. Therefore, in accordance with rule 21 of the Tribunal Rules of Procedure an Employment Judge must decide whether on the available material a determination can properly be made of the claim or part of it, and to the extent that a determination can be made, the Employment Judge must issue a judgment.
3. At the date of dismissal, the Claimant had been continuously employed for 3 complete years and was 40 years old. His gross weekly pay was £507. He was entitled to a redundancy payment of £507 x 3 (= £1,521). His net weekly pay was £418.89. He was entitled to 3 weeks' notice of termination (the net pay for which was £1,256.67. He obtained alternative employment during what would have been his notice period for which he was paid £720.43 net. Having regard to that, his net loss during what would have been the notice period was £536.24. At the date of dismissal, the Claimant had accrued 7 days holiday, of which he had taken 6, leaving 1 day untaken which amounted to a gross equivalent sum of £101.40. He was not paid for the final day of his employment, 05 December 2022, the gross amount properly payable on that date in respect of that day's work amounting to £101.40.
4. I was satisfied that I had sufficient material to properly determine the claims for redundancy, holiday pay and notice. Therefore, it was appropriate for a judgment to be issued to that effect.

Employment Judge Sweeney
Date: 14th April 2023