



EMPLOYMENT TRIBUNALS

Claimant: Mr J Pattison

Respondent: Vi Healthy Living Ltd t/a fwip

Heard at: London Central (CVP)

On: 13 November 2023

Before: Employment Judge Baty

Representation

Claimant: Representing himself

Respondent: Mr A Malek (CEO's brother-in-law)

JUDGMENT

1. No response has been presented by the respondent. The claimant's complaints of breach of contract (notice pay) and for unpaid holiday pay succeed, pursuant to rule 21 of the Employment Tribunal Rules 2013.

2. An award of **£2,496.93 (gross)** is made, payable by the respondent to the claimant. The award comprises:

- a. £1,846.16 (gross) (being one week's unpaid notice pay; and
- b. £650.77 (gross) (being 2.82 days' unpaid holiday pay).

13 November 2023

Employment Judge Baty

JUDGMENT SENT TO THE PARTIES ON

13/11/2023

FOR THE TRIBUNAL OFFICE

Notes

Case No: 2213999/2023

1. No response to the claimant's claim has been presented to the tribunal. The response was due by 13 October 2023. The respondent clearly received the claim and associated papers because a member of the respondent's staff emailed the tribunal on 2 October 2023, stating that the respondent was unable to submit the ET3 response form because its CEO was signed off on medical leave, was the only UK director of the company and the sole person able to reply, and asking if the respondent could delay the response and the hearing (which by this stage had been listed for 13 November 2023).
2. On 16 October 2023 the tribunal wrote to the parties (Employment Judge Spencer's instruction), stating that the deadline had passed and the respondent was now out of time; informing the respondent that if it wished to apply for an extension of time, it must make an application for an extension accompanied by a draft response setting out whatever information it could; noting that the claim was for notice pay and wages only and that it should be possible for someone other than the CEO to respond; and confirming that the claim remained listed for hearing on 13 November 2023.
3. No response or application for an extension of time was at any stage subsequently received by the tribunal.
4. At the start of today's hearing, I explained what the Employment Tribunal Rules 2013 stated in relation to the position where neither a response nor an application for an extension of time have been presented. I explained that ordinarily I was obliged to issue judgment under rule 21 of the Tribunal Rules. I asked the parties, Mr Malek in particular, if they had anything which they wanted to add or to address me on first. Mr Malek said that he thought that a response had been sent in in November 2023, although he appreciated it was beyond the original deadline. I confirmed that I had immediately prior to this hearing asked my clerk to search the tribunal's inbox and that she had confirmed that nothing had been received by the tribunal. The claimant confirmed that he had also not received any response.
5. For the avoidance of doubt, I do not consider that the absence of the CEO amounts to grounds for an extension of time for presentation of the response in the circumstances of a simple claim for unpaid notice pay and holiday pay, the merits of which could almost certainly be ascertained by a simple check of the respondent's records. Had such an application been before me, I would not have granted an extension of time.
6. I therefore proceeded to issue judgement under rule 21, having first ascertained from the claimant the precise amounts owed to him by the respondent.