



EMPLOYMENT TRIBUNALS

Claimant: Mr Craig Taylor

Respondent: Secretary of State for BEIS (R1)
Plastic Profiling Specialists Limited (R2)

Record of an Attended (Hybrid) Hearing at the Employment Tribunal

Heard at: Nottingham

Heard on: 9 January 2024

Before: Employment Judge Hutchinson (sitting alone)

Appearances:

Claimant: In person

Respondents: Parag Soni, Senior Employment Representative

JUDGMENT

The Employment Judge gave Judgment as follows:

1. The 2nd Respondent has made unauthorised deductions from the Claimant's wages and must pay the Claimant the sum of **£725.19**.
2. The Claimant was dismissed in breach of contract in respect of notice and the 2nd Respondent must pay damages to the Claimant of **£2,841.48**.

3. The Claimant was dismissed by reason of redundancy and is entitled to a redundancy payment **of £4,854.20**.
4. The 2nd Respondent has failed to pay the Claimant's holiday entitlement and must pay the Claimant the sum **of £828.77**.

REASONS

1. The Claimant presented his claim to the Tribunal on 17 January 2023. He says that he was employed by the 2nd Respondent as a Director and on the termination of employment following its insolvency he claims:
 - 1.1. Redundancy pay.
 - 1.2. Unpaid wages.
 - 1.3. Notice pay.
 - 1.4. Holiday pay.
2. The Secretary of State for Business and Trade ("SOS") says that the Claimant is not entitled to these payments from the National Insurance Fund under the provisions of section 166 and/or section 182 of the Employment Rights Act 1996. They admit that Plastic Profiling Specialists Limited is insolvent, but do not admit that the Claimant was an employee of the Company within the meaning of section 230 of the Employment Rights Act 1996 ("ERA").
3. The basis of this was that the Claimant did not have a contract of employment either expressed or implied as per the provisions of sections 230 ERA at the relevant date.
4. This hearing is to determine those issues.

Evidence

5. I heard evidence from the Claimant only and I had a bundle of documents which was added to at the start of the hearing and where I refer to page numbers it is from that bundle.

The Facts

6. The Claimant was a director of the 2nd Respondent and also a shareholder. The Company had traded since January 2010 and operated from a business address in Mansfield.
7. Up until August 2021 the Claimant owned 20% of the shares in the Company. His

wife Denise Taylor also owned 20% of the Company. John Dale owned 20% of the Company and Christopher Unwin owned 40% of the Company.

8. As of August 2021 the Company had lost its premises in Mansfield and was unable to secure alternative premises. The Company had to sell all the equipment and the 10 staff who were employed by the Company were made redundant. At that time Mr Taylor purchased with his wife and daughter the shares of the other owners of the business.
9. From August 2021 the Claimant owned 52 shares in the business and his wife and daughter owned 27 shares each. It can be seen from this that the Claimant therefore owned 49% of the shares of the business.
10. The Claimant received dividends from the business, and he also received a salary from the 1st of April 2022 his salary was £236.79 per week. He did not pay any Tax and National Insurance on this sum.
11. I have seen a contract of employment between Plastic Profiling Specialists Limited and the Claimant which is at pages 133-140 of the bundle and is signed by Mr Taylor on 14 January 2010.
12. Mr Soni for the Respondent agreed having heard the Claimant's evidence that he was an employee of the business in accordance with the provisions of section 230 ERA. He was therefore entitled to payments which comprised:

Redundancy Pay

The Claimant had commenced his employment on 8 January 2010 and his employment ended on 21 October 2022. The effective date of termination of his employment was 22 January 2023. On that date he was 54 years of age and had been employed 13 years. He was entitled to 20.5 weeks of redundancy pay at his weekly rate of £236.79. His redundancy payment is therefore £4,854.20.

Notice Pay

The Claimant was dismissed without notice and had not made any earnings during the 12 weeks' notice period. His net pay was £236.79 and therefore his entitlement to notice pay is £2,841.48.

Wages

The Claimant was not paid for his last 3 weeks of work i.e. up until 21 October 2022. He is therefore owed wages of £725.19.

The Claimant also made a claim for income tax which should have been paid to him in his October pay cheque. That amounted to £1,047.50. I explained to the Claimant that was not a sum that he could recover in these proceedings and would need to take that up with the Inland Revenue.

Holiday Pay

The statutory holiday the Claimant is entitled to is 28 days. He had taken one week of paid leave and up until the 21 October 2022 he had accrued 22.5 days holiday. He is entitled to be paid for 17.5 days which amounts to £828.77.

Employment Judge Hutchinson

Date: 16 January 2024

JUDGMENT SENT TO THE PARTIES ON

...20 January 2024.....

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FOR THE TRIBUNAL OFFICE

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