



EMPLOYMENT TRIBUNALS

Claimant: Mr M Taylor

Respondent: Active Community Development CIC

Heard at: London South Employment Tribunal, Croydon (by video)

On: 13 August 2024

Before: Employment Judge Abbott

Representation

Claimant: representing himself

Respondent: not in attendance

JUDGMENT

The claimant was dismissed by reason of redundancy and is entitled to a redundancy payment of £3,365.25 (gross).

REASONS

1. This claim came before the Tribunal for a final hearing today. Mr Taylor claims that he is owed money in respect of (1) a redundancy payment, (2) unpaid wages and (3) unpaid holiday pay. This judgment concerns only the redundancy payment claim. I refer the parties to my separate Case Management Order in respect of the other claims.
2. In its response, the respondent does not dispute the amount claimed in respect of redundancy payment. The only defence raised is that the claim was brought outside of the six month statutory time limit.
3. The respondent did not appear at the hearing today. The Tribunal received an email from Mr Castle, the respondent's director, at 5:41pm yesterday indicating that he would not be able to attend due to work commitments and requesting a postponement. The email referred to an earlier postponement request, but I could not find any evidence of such a request in the Tribunal's files.

4. Rule 47 of the Employment Tribunals Rules of Procedure provides:

If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.

5. Taking account of the respondent's reasons for non-attendance as set out in Mr Castle's email as well as the claim form and response, I considered it was in the interests of justice to proceed to determine (only) the redundancy payment claim. The only point of dispute in that claim is the question of whether it was brought in time or not, which requires me to apply the statutory provisions on time limits to undisputed matters of fact (the relevant dates). The respondent is not prejudiced by me doing that in its absence, and is already on notice of the Tribunal's initial view in this regard (see the Tribunal's letter of 21 March 2024 sent on the instructions of EJ Evans, to which no response has been received).

6. The relevant statutory provisions are as follows.

7. Section 164 of the Employment Rights Act 1996 ("**ERA**") provides (insofar as relevant):

(1) An employee does not have any right to a redundancy payment unless, before the end of the period of six months beginning with the relevant date—

[...] (c) a question as to the employee's right to, or the amount of, the payment has been referred to an employment tribunal [...].

[...]

(5) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsections (1)(c) and (2).

8. Section 145(2)(a) ERA provides that the "relevant date" in circumstances such as the present case is the date on which the employee's notice expires.

9. Section 207B ERA provides (insofar as relevant):

[...]

(2) In this section—

(a) Day A is the day on which the complainant or applicant concerned complies with the requirement in subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and

(b) Day B is the day on which the complainant or applicant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section.

(3) In working out when a time limit set by a relevant provision expires the period

beginning with the day after Day A and ending with Day B is not to be counted.

[...]

10. The undisputed facts in this case are as follows:
 - a. The “relevant date” is the end of the claimant’s notice period: 26 June 2023.
 - b. “Day A” is the date of receipt by ACAS of the EC notification: 19 July 2023.
 - c. “Day B” is the date of issue by ACAS of the EC certificate: 2 August 2023.

11. Accordingly, the time limit for the claimant to bring a complaint to the Tribunal ended 6 months plus 14 days (less a day) after 26 June 2023, that being 8 January 2024. The claim was presented on 1 January 2024. It was therefore brought in time.

12. Mr Taylor claimed a sum of £3,365.25 (gross) in respect of redundancy. No dispute in respect of this figure was raised in the response – in fact, the response expressly accepts this payment is owed to the claimant. In those circumstances, I give judgment in favour of the claimant in respect of that sum.

Employment Judge Abbott

Dated: 13 August 2024

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