



EMPLOYMENT TRIBUNALS

Claimant: Mr T Williams

Respondent: Mrs Christine Charlton (acting for the estate of Mr Brian Charlton)

Heard: By video **On:** 18 September 2024

Before: Employment Judge S Moore

Representation:

Claimants: Ms Ibbotson, Counsel

Respondent: Did not attend

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

The claim was issued in the Wales Employment Tribunals on 29 April 2023. The respondent has failed to present a valid response on time. The Employment Judge has decided that a determination can properly be made of the claim, or part of it, in accordance with rule 21 of the Rules of Procedure.

The judgment of the Tribunal is as follows:

Wages

1. The complaint of unauthorised deductions from wages is well-founded. The respondent made an unauthorised deduction from the claimant's wages in the period January 2023.
2. The respondent shall pay the claimant **£1773.20**, which is the gross sum deducted. The claimant is responsible for the payment of any tax or National Insurance.

Notice Pay

3. The complaint of breach of contract in relation to notice pay is well-founded.

4. The respondent shall pay the claimant **£835.20** as damages for breach of contract. This figure has been calculated using gross pay to reflect the likelihood that the claimant will have to pay tax on it as Post Employment Notice Pay.

Holiday Pay

5. The complaint in respect of holiday pay is well-founded. The respondent made an unauthorised deduction from the claimant's wages by failing to pay the claimant for holidays accrued but not taken on the date the claimant's employment ended.
6. The respondent shall pay the claimant **£927.07**. The claimant is responsible for paying any tax or National Insurance.

Redundancy Payment

7. Under section 163 and 174 (2) Employment Rights Act 1996 it is determined that the claimant is entitled to a redundancy payment of **£835.20**.

Unfair Dismissal

8. The complaint of unfair dismissal is well-founded. The claimant was unfairly dismissed.
9. The respondent shall pay the claimant the following sums:
 - (a) A compensatory award of **£5718.78**.¹
 - (b) Loss of statutory rights of **£500.00**.
10. The Employment Protection (Recoupment of Benefits) Regulations 1996 apply:
 - a. The total monetary award (i.e. the compensatory award plus basic award) payable to the claimant for unfair dismissal is **£5718.78**.
 - b. The prescribed element is **£5718.78**.
 - c. The period of the prescribed element is from 31 January 2023 to 18 September 2024.
 - d. The difference between (1) and (2) is **£0**.

Failure to provide a written statement of employment particulars

11. When the proceedings were begun the respondent was in breach of its duty to provide the claimant with a written statement of employment particulars. There are no exceptional circumstances that make an award of an amount equal to two weeks' gross pay unjust or inequitable. It is not just and equitable to make an award of an amount equal to four weeks' gross pay. In accordance with section 38 Employment Act 2002 the respondent shall therefore pay the claimant **£835.20**.

¹ No basic award has been made as a redundancy pay award has been made. The compensation has also been reduced to take into account the notice pay award and universal credit received, 22.5 weeks.

Employment Judge S Moore

Date: 18 September 2024

JUDGMENT SENT TO THE PARTIES ON 30 September 2024

AND ENTERED IN THE REGISTER

FOR THE TRIBUNAL OFFICE Mr N Roche