



EMPLOYMENT TRIBUNALS

Claimant Mr S Thomas

Respondent: Mayfayre Aluminium Systems Limited

HELD AT: Sheffield

ON: 3-5 September 2018

BEFORE: Employment Judge Little

REPRESENTATION:

Claimant: In person (accompanied by a PSU volunteer)

Respondent: Mr S Howson, Director (and latterly by Mr A Smith, Director)

JUDGMENT

My Judgment is that:-

1. It was not reasonably practicable for the claimant to present his claim to the Tribunal within the time extended by the Employment Rights Act 1996 section 207B(3) and (4) and the date of actual presentation (28 February 2018) was a reasonable time thereafter. Accordingly the Tribunal has jurisdiction.
2. The claimant is retrospectively granted an extension of time for presenting a response to the employer's contract claim.
3. The claimant's dismissal was procedurally unfair.
4. However other than a declaration that there was an unfair dismissal the claimant is not entitled to any financial remedy as it is inevitable that he would still have been dismissed even if an entirely fair procedure had been followed.
5. The claimant was wrongfully dismissed and the respondent is ordered to pay to the claimant damages of £705.94 representing two weeks' notice pay.
6. The complaint in respect of holiday pay fails and is dismissed.

7. The claimant is entitled to an additional remedy under the provisions of the Employment Act 2002 section 38 because he was not provided with a written statement of his terms and conditions of employment. The award is in the higher amount and so is four weeks' pay which is calculated on gross weekly pay but subject to the statutory cap which at the relevant time was £489. Accordingly the award is £1956.
8. The employer's contract claim (counter claim) fails and is dismissed.

Employment Judge Little

Date 17th September 2018

Note - Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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