



EMPLOYMENT TRIBUNALS

SITTING AT: LONDON SOUTH

BEFORE: EMPLOYMENT JUDGE F SPENCER

BETWEEN: Mr S Weaver CLAIMANT

AND

Lodge Hill Trust RESPONDENT

ON: 21 September 2018

Appearances

For the Claimant: In person
For the Respondent: No appearance

JUDGMENT

The Judgment of the Tribunal is that:

- (i) The Respondent made unlawful deduction from the Claimant's wages in the amount of £481.50.
- (ii) The Claimant was dismissed without notice and the Respondent is ordered to pay the Claimant £135 being one week's wages as damages for breach of contract.
- (iii) The Respondent is ordered to pay the Claimant £101.25p in respect of holiday accrued but not taken.
- (iv) The Respondent is ordered to pay the Claimants travel expenses for today's hearing in the amount of £44.50.
- (v) The Respondent is ordered to pay the Claimant a total of **£762.25**.

The Recoupment Regulations 1996 do not apply to this award

REASONS

Written reasons have been given in the light of the Respondents non-attendance today.

1. By a claim form presented to the Tribunal the Claimant claims unpaid wages, notice pay and holiday pay. The Claim form did not calculate or state the amount claimed or owed.
2. In its response the Respondent said that it was unable to find any monies owed to the Claimant. They did not intend to attend today's hearing but were willing to meet with the Claimant if he had additional information to help them understand his position. Since the Respondent had indicated it did not intend to attend the hearing I decided to proceed with the hearing in the absence of the Respondent, having taken into account the content of its Response.
3. At today's hearing the Claimant said that he worked for the Respondent from 4th December 2017 until 31st January 2018. His last day of work was 31st January 2018 when he was asked to leave and "frogmarched" out of the building. He had not received notice pay. I noted that in its Response the Respondent states that the Claimant was paid notice but the Claimant produced a payslip for February showing a zero payment.
4. The Claimant made no complaint about his pay for December but said he had been underpaid in January 2018. The Claimant produced a timesheet showing hours and days worked which had been signed by his manager James, a signed contract of employment and payslips for January and February. The payslip for January showed that the Claimant had been paid £450 (£585 being recorded as pay from which £135 been deducted for sickness absence).
5. I noted that in the Response the Respondent states that they had been unable to ascertain any hours which were owed to the Claimant. I asked the Claimant to what extent he had clarified with the Respondent the amount he was claiming. The Claimant told me that although he had not set out formally the amount claimed, the documents which were before me, in particular the timesheet, had all been obtained from the Respondent. It seemed to me, on that basis, that the Respondent ought to have been able to work out the amount payable to the Claimant given the hours clearly set out in the timesheet produced to me today.
6. His contract provided that he was to work 16 hours a week at £9 an hour. There were no fixed days but were to be arranged by agreement with the line manager. Additional hours were to be paid at the Claimant usual hourly rate of £9 an hour. He was entitled a break of half an hour for lunch, which would not be paid. He was also entitled to 9 days paid holiday in each calendar year in addition to statutory holidays. The contract also provided that during the first 6 months of his employment his employment could be terminated on one week's notice.
7. The timesheet showed that the Claimant had worked for 14 days during January. 11 days indicated that he was entitled to be paid for 7.5 hours and 3 days indicated 7 paid hours. The timesheet also showed that the Claimant had been sick for 3 days. Adding up the hours of work actually

done and signed for (rather than using the 16 hours a week specified in the contract) and excluding any sick days it appeared to me that the Claimant should have been paid £931.50 in accordance with his contract. He had been paid £450 and was therefore owed the difference of £481.50.

8. It appeared from the same timesheet that the Claimant had worked on 31st January 2018. The Claimant said he had not been paid in lieu of notice (contrary to what the Respondent had indicated in its Response) and his February payslip indicated that no payment had been made in February either for notice pay or for holiday pay. I therefore award him a further £135 being 15 hours at £9 an hour.
9. None of the payslips indicated that the Claimant had been paid for holiday accrued but not taken. His contract states that the Claimant is entitled to 9 days paid holiday in each calendar year, accruing at the rate of 1/12 per month. He is therefore entitled to one and a half days pay in respect of the 2 months during which the Claimant was working for the Respondent and I therefore award him a further £101.25 in respect of holiday accrued but not taken.
10. Finally, the Claimant said he was out of pocket in that he had had to take one day off from his new employment in order to try and sort out the difficulties with Respondent. He had also paid £44.50 in travel expenses to attend today's hearing. I did not award him the one day's pay as I was not satisfied that it was necessary for the Claimant to have taken a day off in order to speak to the Respondent, but I have awarded him his travel expenses for today.

Employment Judge F Spencer
21 September 2018