



THE EMPLOYMENT TRIBUNAL

Claimant
Ms M Forster

Respondent
The Will Writing Company Ltd

MADE AT NORTH SHIELDS
EMPLOYMENT JUDGE GARNON

ON 22nd February 2018

JUDGMENT (Liability and Remedy)
Employment Tribunals Rules of Procedure 2013 –Rule 21

1. The claimant is entitled to a redundancy payment payable by the respondent in the sum of £5025.37.
2. The claim of unlawful deduction of wages is well founded. I order the respondent to repay £ 711.90 gross of tax and National Insurance (NI) to the claimant.
3. The claim of breach of contract is well founded. I award damages on which no tax is payable to be paid by the respondent in the sum of £ 2801.25
- 4 The claim for compensation for untaken annual leave is well founded. . I order the respondent to pay compensation gross of tax and NI in the sum of £ 395.50

REASONS

1, The claims are for a redundancy payment, breach of contract (notice pay), unpaid wages and compensation for untaken annual leave. On 9th November 2017 the claimant and others were dismissed with immediate effect when the respondent ceased trading. A Companies House search does not show formal insolvency procedures in force. The claim was served on 24th January 2018. A response was due by 21st February but none was received.

2. I am required by Rule 21 of the Employment Tribunals Rules of Procedure 2013 to decide on the available material whether a determination can be made and, if so, obliged to issue a judgment which may determine liability and remedy. I have in the claim form sufficient to enable me to find the claims proved on a balance of probability and to determine the accuracy of the sums claimed.

3. The law relating to redundancy payments is in Part XI of the Employment Rights Act 1996 (the Act). A claimant is entitled to 1.5 weeks pay for every complete year of continuous employment during the whole of which she was over the age of 41. The claimant was throughout her continuous employment which was 9 years so the

number of weeks pay to which she is entitled is 13.5. Her gross weekly basic pay was £357 For calculation of redundancy payments,(and notice pay) the amount of employer's pension contributions, £15.25 per week, is added to basic pay (Drossou-v-University of Sunderland).. $£ 372.25 \times 13.5 = £5025.37$

4. The law relating to unlawful deduction of wages is in Part 2 of the Act. The claimant was owed £ 711.90 gross for work done up to termination. Such sums are awarded gross of tax.

5. The Working Time Regulations 1998 say in Regulation 14 that where a worker's employment is terminated during the course of his leave year, and on the date on which the termination takes effect the proportion she has taken of the leave to which she is entitled in the leave year differs from the proportion of the leave year which has expired. the employer shall make her a payment in lieu of untaken leave The claim form shows she entitled to £395.50 inclusive of regular overtime Such sums are awarded gross of tax .

6. The common law provides a contract of employment may be brought to an end by notice. Dismissal without such notice is termed "wrongful". Damages for wrongful dismissal are the net pay due during the notice period (see Addis v The Gramophone Company) . The claimant's net basic pay inclusive of pension contributions was £311.25 . The statutory minimum period of notice under s86 is, in her case, 9 weeks . $£311.25 \times 9 = £2801.25$.

T M Garnon EMPLOYMENT JUDGE

JUDGMENT SIGNED BY EMPLOYMENT JUDGE ON 22nd FEBRUARY 2018

JUDGMENT SENT TO THE PARTIES ON