



THE EMPLOYMENT TRIBUNALS

Claimant
Ms J Witherspoon

Respondent
SGA Forecourts Ltd

EMPLOYMENT JUDGE GARNON

MADE AT NORTH SHIELDS

ON 9th January 2018

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

The claims of unfair dismissal, wrongful dismissal (breach of contract), sex and/or pregnancy discrimination and harassment , unlawful deduction of wages and failure to pay compensation for untaken annual leave are well founded. There will be a remedy hearing fixed at which the respondent may attend to be heard on remedy only.

REASONS

1. The claim was served by post on the address “ Jet Service Station, A167 Northbound, Plawsworth , Durham DH2 3NL” on 14th November 2017. A response was due by 12th December 2017 but none was received. A preliminary hearing had been fixed for today. In such circumstances an Employment Judge is 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 only or liability and remedy.

2. The text of the claim form complains mainly of the acts of a manager named Mr Miles Cole . Petrol Filling Stations are commonly operated under some form of franchise. The franchisee may change but the management remain in the hands of the same person. I know this station as I drive past it regularly. I was surprised no response had been received. On 13th December 2017 I decided to perform a search at Companies House

3. The search revealed the respondent has a registered office at Cockton Hill Service Station , Cockton Hill Road , Bishop Auckland, DL14 6JN approximately 20 miles from Plawsworth. On 16th December I caused a letter to be sent to the claimant asking her to

confirm whether, to the best of her knowledge, the Plawsworth Filling Station remained operational and controlled by the respondent . Her reply on 20th December was unclear on the last point but she confirmed Mr Cole was still the manager.

4 On 28th December 2017 , out of an abundance of caution , I caused a letter to be sent to the respondent at both the Plawsworth and Cockton Hill addresses saying that if it intended to defend it must contact the Tribunal without delay and explain why it did not respond earlier. Today still no contact from the respondent had been received. I conducted the preliminary hearing with the claimant by telephone. She confirmed every payslip she had up to termination showed the respondent as her employer.

5. The law of unfair dismissal is in Part X of the Employment Rights Act 1996 (the Act) and the law of unlawful deduction of wages is in Part II. The common law provides a contract of employment may be brought to an end only by reasonable notice. Dismissal without such notice is termed "wrongful". 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 he has taken of the leave to which he is entitled in the leave year differs from the proportion of the leave year which has expired. his employer shall make him a payment in lieu of untaken leave. The law relating to discrimination and harassment is in the Equality Act 2010, in particular sections 13, 18, 26, 39 and 40 in this case.

6. I have in the claim form sufficient information to enable me to find the claims proved on a balance of probability but not enough to determine the remedy to be awarded.

TM Garnon Employment Judge

Date signed 9th January 2018.