



EMPLOYMENT TRIBUNALS

Claimant: Mr C Martin

Respondent: Pya 1 Ltd

Heard at: North Shields **On:** 09 January 2020

Before: Employment Judge Sweeney

Appearances:

For the Claimant: In person

For the Respondent: No appearance

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

The judgment of the Tribunal is that:

1. The claim of unlawful deductions in respect of arrears of pay is well founded and succeeds. The Respondent is ordered to pay the Claimant the gross sum of **£517** from which tax and national insurance is to be deducted.
2. The claim for payment of outstanding holiday pay is well founded and succeeds. The Respondent is ordered to pay the Claimant the gross sum of **£262.80** from which tax and national insurance is to be deducted.

REASONS

3. The Claimant's Claim Form was served and sent to the Respondent. A response was due by 10 December 2019. No response was received. 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 on the claims and, if so, obliged to issue a judgment which may determine liability and remedy.
4. The Respondent's registered office is at 97 Newcastle Road, South Shields NE34 9AA. The proceedings were validly served on the Respondent.
5. The Claimant appeared before me today to give some further details of his claim. The Claimant was employed from 20 March 2019 to 08 September 2019. By the date of termination of his employment he had accrued 13 days' annual leave, of which he had taken 10. Therefore, he was entitled to payment of 3 days at a daily rate of £87.60 = **£262.80**. His pay was £438 gross per week (on my calculation that amounts to approximately £366 net). The Claimant gave two weeks' notice of termination of his employment. However, the Respondent only paid him £300 for those two weeks. This meant a shortfall of £432 (the Claimant assessed the shortfall as being about £500).
6. By my calculations the Claimant should have paid the gross sum of £876 for those two weeks. He was in fact paid a net sum of £300, which was 41% of the pay that was due to him. Therefore, the Respondent failed to pay him (or deducted) 59% of his wages. $£876 \times 59\% = \mathbf{£517}$.
7. I am satisfied that the claims have been made out and that I have sufficient information in order to make an award. As the Respondent unlawfully deducted the sum of £517 and failed to pay the Claimant £262.80 by way of accrued but untaken holiday, it is ordered to pay the Claimant the total sum of **£779.80** subject to tax and national insurance.

Employment Judge Sweeney
9 January 2020