



EMPLOYMENT TRIBUNALS

Claimant: Mr O Butler

Respondent: RadleyPost Limited (now known as Copland Advertising Limited)

Heard at: East London Hearing Centre

On: Friday 12 June 2020

Before: Employment Judge W A Allen QC

Representation

Claimant: In person (by telephone)

Respondent: Did not attend

This has been a remote hearing, which has not been objected to by the parties. The form of remote hearing was A - audio fully. A face to face hearing was not held because it was not practicable and no-one requested the same and all issues could be determined in a remote hearing. The documents that I was referred to are in the tribunal file, the contents of which I have recorded. The order made is described below. This open hearing was listed on Courtserve along with a notification to members of the public as to how they might seek to observe the hearing.

JUDGMENT

The judgment of the Tribunal is that:-

1. The Claimant's claim for unlawful deduction from wages succeeds.
2. The Respondent is to pay the Claimant a total sum for unlawful deduction from wages of £753.84.

REASONS

1 By ET1 claim form presented on 14 January 2020, the Claimant brought a claim for unlawful deduction from wages in the sum of £753.84 in relation to his brief

engagement with the Respondent, which lasted from 1 October 2019 to 23 October 2019.

2 A notice was sent by the tribunal on 16 January 2020 informing the parties of a final hearing today (12 June 2020) and making case management orders.

3 The Respondent was notified of the claim and given until 13 February 2020 to submit an ET3 response form. The Respondent did not submit a response and has taken no part in the proceedings. A Companies House Check today indicated that the Respondent is still an active company and that it is now known as Copland Advertising Limited.

4 On 28 May 2020, the Respondent was informed by the Tribunal that, as it had not entered a response, judgment may now be issued.

5 On 10 June 2020 the parties were notified that today's hearing would go ahead by telephone.

6 The Claimant attended today's telephone hearing. He indicated that he was content for the hearing to proceed as a telephone hearing. The Claimant made an affirmation to tell the truth and he adopted as his evidence the contents of his claim form.

7 In the ET1 claim form, Boxes 8.2, 9.2 and 15 state as follows: [8.2] "I ended my employment on 23/10/2019 as Mr William Radley, the managing director of the company, had made me feel too uncomfortable to be able to continue working for him. I was due to receive payment on 31/10/2019 to the sum of £753.84 equivalent to 13 days work, accounting for 4 half days taken for hospital appointments on the (2/10, 3/10, 9/10 and 23/10) and one day of holiday pay taken on 04/10/2019 as previously agreed upon. I did not receive this payment or a payslip from RadleyPost, when I asked Mr Radley for payment via email I was told on the 04/11/2019 that he did not process my payroll in October and he needed to deliver a one-off payslip, which would take a few days. After not having heard back from him I replied on the 8/11, 11/11 and 13/11 each time asking when I would be paid, to no response. I called the office number and spoke to a member of staff on 15/11/2019 who told me that Mr Radley wasn't available. Shortly after this I received an email from Mr Radley on 15/11/2019 telling me not to call the office again or "I won't proceed with your problem any further" and that he needed to look at my payslip for October and that I was to expect to hear back from him in the next few days. On 26/11/2019 in my email I stated that I expected my payment to come when the rest of his staff were being paid, at the end of the month, and that if this was incorrect assumption to let me know about it. On 02/12/2019 I sent a formal grievance on the advice of ACAS stating how much I believe I was owed and a deadline of 09/12/2019 to have received payment, payslip and/or confirmation of when to expect these. I did not hear back from Mr Radley and submitted a claim for early conciliation with ACAS on 10/12/2019. A month later I have not personally heard from Mr Radley and the only contact I believe he made with ACAS was to ask for an extension to the deadline of 09/01/2020. Each time I have asked for payment I have been told that I will be paid "in a few days" and heard nothing for at least a week afterwards." [9.2] "I was due to receive payment on 31/10/2019 equivalent to £753.84 equivalent to 13 days work, accounting for 4 half days taken for hospital appointments on the (2/10, 3/10, 9/10 and 23/10) and one day of holiday pay taken on 04/10/2019 as previously agreed upon with the HR manager. This is based upon my basic salary of £14,000 per year." [15] "Mr Radley has agreed to pay me, though at every

opportunity has stalled out the process, refusing to communicate with me at all. This has left me unable to pay bills and left me and my partner having to borrow money in order to get by. I don't think that it is right that this should not be compensated as I told Mr Radley repeatedly that I needed this money in order to survive.”

8 The Claimant was taken to each of these sections in his claim form, asked if there were any amendments to be made and whether he adopted the contents as his evidence. He did not identify any amendment and he adopted all of the contents as his evidence.

9 The Claimant further stated that no payment had been made to him from the Respondent since the claim form had been presented.

10 He clarified that the sum of £753.84 was a gross figure.

11 He was asked if there was anything else that he wished to add and he confirmed that he had no further information to add.

12 On the basis of the evidence before the tribunal, I was satisfied that the Claimant had worked for a total of 13 days for the Respondent and that he had not been paid the sum of £753.84 gross for that work which amounted to an unlawful deduction from wages and that judgment should be given for the Respondent to pay the Claimant that sum.

Employment Judge WA Allen QC
Date: 12 June 2020