



EMPLOYMENT TRIBUNALS

Claimant:
Mr Tobias Callum Rawcliffe

Respondent:
Veea Group Ltd

Heard at: Leeds (by Video Link)

On: 9 July 2021

Before: Employment Judge R S Drake

Representation:

Claimant: Ms M Cornaglia (of Counsel)
Respondent: Mr D L Lavery (Director)

JUDGMENT

1. The Claimant has established that he was entitled to, and the Respondents shall pay to him the following:
 - 1.1 Unpaid wages in the sum of £7,007.50 net of tax and NI; and
 - 1.2 Unpaid holiday pay in the sum of £355.80 net of tax and NI; and
 - 1.3 Unpaid notice pay in the gross sum of £1,376.92.

REASONS

2. The Claimant gave oral evidence of the following: -
 - 2.1 what pay he was due to receive during employment but was not paid at all;
 - 2.2 unpaid holiday accrued and due during his employment; and
 - 2.3 having been given but not being required or expected to work 4 weeks of notice.
3. The Respondent had not filed in time a Response (ET3) to this claim nor contested these proceedings in time, but eventually did so on 11 June 2021 and was allowed to appear and defend today. Mr D L Lavery, a director, attended today to give formal oral testimony. I record I am grateful to him for his candour. Where there was conflict of evidence, the

Claimant's version of events was preferred.

4. I made the following findings of fact based on the evidence, much of which being uncontested or otherwise conceded by both sides: -

4.1 The Claimant's engagement with the respondent as a relationships director is recorded in a letter dated 18 September 2020 which appears at page 40 and 41 of the agreed bundle; that letter constitutes a statement of particulars of employment (therefore no finding of failure to supply such a statement is made in this case) in that it evidences a letter of offer which the Claimant accepted;

4.2 The agreed terms included pay at the rate of 40,000 pounds pa annual leave of 32 days and the right after 12 weeks of employment to four weeks notice to terminate employment;

4.3 During the entire period of the Claimant's employment he received only the sum of £4261.50 on 13th November 2020 but otherwise from the start of his employment until it concluded when he resigned 29 January 2021, he received no other payment pursuant to his contract;

4.4 The Claimant accrued 8 days holiday pursuant to his contract from the start of his employment until its termination, but I accepted his concession that he took only five days and was therefore entitled only to three days unpaid holiday;

4.5 The Claimant had signed no written agreement to permit withholding of his pay and holiday pay though the respondents say that he entered into a gentlemen's agreement to that effect; the Claimant denies entering into such an agreement but, in any event, it was not recorded in writing if it had been agreed;

4.6 Because the Claimant had not been paid his due salary and holiday pay, he became in dispute with the respondents and agreed in writing with them that he would forgo any notice entitlement but only if they fulfilled their obligations to pay outstanding wages; they failed and therefore though the Claimant otherwise indicated willingness to work, he was not paid in lieu of notice;

5. When the provisions of section 13 of the Employment Rights Act 1996 were explained to Mr Lavery, he openly and freely conceded that in the absence of written agreement to permit withholding of pay, the Respondents were not legally entitled to withhold the Claimant's pay as they had done, and that he was entitled to judgement for the sum outstanding which he accepted was £7007.50.

6. Though the Claimant had originally claimed 8 days holiday pay, he conceded that he had taken a total of 5 days during his service with Respondents, so therefore he was entitled to be paid only 3 days holiday pay.

7. Though the Claimant had agreed in writing on 4 February 2021 that he

would forgo notice and notice pay, this was expressly conditional upon in receiving his outstanding unpaid salary, but as this condition was never fulfilled, and because he had otherwise been willing to work, the Respondents failure to pay him in lieu of notice amounts to breach of contract. The Claimant was entitled to 4 weeks notice, and as his pay rate was £769.23 gross per week, taking account of him mitigating his loss by finding alternative employment for which he was paid £1700 net, the outstanding balance of notice pay which is the basis of the damages award set out below is £1,376.92 gross.

6 Thus the Claimant is entitled to be paid by the Respondent the following: -

<u>Item</u>	<u>£</u>
Net Unpaid wages	7,007.50
Net Holiday Pay	355.80
Gross Notice pay	1,376.92
Total	8,740.22

I award Judgment and order that the Respondent shall pay to the Claimant the sum of £8,740.22

Employment Judge R S Drake

Date 9 July 2021

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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