



EMPLOYMENT TRIBUNALS

Claimant: Slawomir Lazdzin

Respondent: Messiah Corporation Ltd

Heard at: East London Hearing Centre (by telephone)

On: 26 November 2021

Before: Employment Judge Housego

Representation

Claimant: Joshua Cainer, of Counsel, instructed by Fathima Hussain of Thompsons Solicitors

Respondent: Did not attend, was not represented, and sent no submissions

JUDGMENT

1. The claim was not made out of time.
2. The Respondent made unlawful deductions from the wages due to the Claimant and is ordered to pay the Claimant **£1,978.60**, the amount of those deductions.
3. The Respondent is ordered to pay to the Claimant outstanding holiday pay of **£453.91**.
4. The Respondent is ordered to pay to the Claimant notice pay in the sum of **£810.55**.
5. The total the Respondent is ordered to pay to the Claimant is **£3243.06**.

REASONS

1. This preliminary hearing was called to decide whether the claim was lodged in time. The Claimant was dismissed on 05 February 2021. The 3 months elapsed on 04 May 2021. The Claimant started the early conciliation process on 15 February 2021 and it ended on 08 March 2021. That is 23 days. Adding 23 days to 04 May 2021 gives an end date of 27 May 2021. The claim was filed on that day so is in time.
2. The Respondent did not participate in this hearing. Save for filing an ET3 the Respondent appears not to have communicated substantively with the Tribunal or the Claimant since. They did not respond to a letter of 30 July 2021 from the Tribunal asking whether they agreed with the Claimant's position (as above) on the question of time limits, and an order that they respond (by 13 August 2021) to the Claimant's letter of 15 July 2021. On 07 October 2021 someone called Frances Foley emailed the Tribunal and the Claimant to say that they did not have a letter to which to respond. The Tribunal responded on 16 October 2021. The Respondent did not reply. The Tribunal has used the email address given by the Respondent, and I am satisfied that they were notified of the hearing.
3. I strike out the Response and enter judgment for the Claimant, under Rule 47:
Non-attendance
47. If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.
4. I have also considered the substance of the Grounds of Resistance. This consists of a series of numbered documents which have all been typed by the same person, all headed "Facts" and said to be from different people. They set out allegations against the Claimant which the Respondent says was why the Claimant was dismissed. Nothing in the Grounds of Resistance deals with the merits of the claim, other than to assert that summary dismissal was appropriate. I am satisfied that there is no reasonable prospect of the defence succeeding, and so also strike out the response under Rule 37(1)(a).
5. The Respondent has also failed to comply with the Tribunal's Order of 30 July 2021 requiring them to file further and better particulars, and I also strike out the response under Rule 37(1)(c) and (d).
6. The Respondent has had the opportunity to make representations at this hearing, but did not attend.
7. Rule 37 reads:

Striking out

37.—(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—

- (a) that it is scandalous or vexatious or has no reasonable prospect of success;
- (b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;
- (c) for non-compliance with any of these Rules or with an order of the Tribunal;
- (d) that it has not been actively pursued;
- (e) that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim or response (or the part to be struck out).

(2) A claim or response may not be struck out unless the party in question has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.

(3) Where a response is struck out, the effect shall be as if no response had been presented, as set out in rule 21 above.

8. I accepted the Claimant's schedule of loss, set out in the Schedule, as accurate. Accordingly, I entered judgment as above.

**Employment Judge Housego
Date: 26 November 2021**

Schedule

**IN THE EAST LONDON EMPLOYMENT
TRIBUNAL
B E T W E E N**

Case No: 3204562/2021

MR SLAWOMIR LAZDZIN

Claimant

-and-

MESSIAH CORPORATION LIMITED

Respondent

**CLAIMANT'S SCHEDULE OF LOSS
dated 26 November 2021**

1. WRONGFUL DISMISSAL/BREACH OF CONTRACT

1 week's notice x £810.55 gross weekly salary £810.55

(9 months' service from 11 May 2020 to 5 February 2021 entitles the Claimant to 1 week's notice under s.86(1)(a) ERA 1996)

TOTAL NOTICE PAY £810.55

2. UNAUTHORISED DEDUCTIONS FROM WAGES CLAIM

Salary payments

2 weeks' unpaid wages (payslips due on 1 and 8 February 2021)

£810.55 gross weekly salary £1,621.10

£178.75 average gross weekly daily living allowance £357.50

Sub-total £1,978.60

Payment in lieu of untaken annual leave upon termination of employment under reg 14 WTR 1998

2.8 days' untaken annual leave £453.91

(£810.55 gross weekly salary divided by 5 days equals £162.11 multiplied by 2.8 days is £453.91)

TOTAL UNAUTHORISED DEDUCTIONS £2432.51

FINAL TOTAL £3243.06
