



EMPLOYMENT TRIBUNALS

Claimant: Ms C Hoole

Respondent: ISH-Media LTD

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

1. The respondent has made an unauthorised deduction from the claimant's wages and is ordered to pay the claimant the gross sum of £6000 for pension contributions between 2013 and 2018 (£100 per month) plus £600 for pension contributions for the period April 2021 to September 2021 at £100 per month making a total of £ 6600 gross unpaid pension contributions.
2. The respondent has also made an unauthorised deduction from the claimant's wages and is ordered to pay the claimant the gross sum of £5160 (£1720 x 3) for furlough payments claimed but not paid to the claimant for the months of June, July and September 2021.
3. The claimant was dismissed in breach of contract in respect of notice and the respondent is ordered to pay damages to the claimant in the sum of £5953.80 (gross weekly pay £496.15 x 12).
4. The claimant was dismissed by reason of redundancy and is entitled to a redundancy payment of £9426.85 (£496.15 x 1 x 19 years' service). The claimant was 41 when made redundant.
5. The total gross amount the respondent is ordered to pay to the claimant is £27,140.65. The respondent must either pay the full gross amount directly to the claimant and the claimant will be liable for any tax and national insurance contributions or the respondent pays to the claimant the net amount and pays the tax and national insurance contributions directly to HMRC.

REASONS

1. The claimant was employed as a personal assistant by the respondent company on 1 April 2002. The claimant's gross annual salary was £25,800 at the time of her termination.
2. The respondent is a private limited company which has still the status of being active on Companies House. Mr ES Blackman is the sole director and Mr D Blackman is the company secretary.
3. Between 2013 and 2018 the company failed to pay into the claimant's pension scheme employee contributions of £100 per month which had been deducted from the claimant's pay. The total unpaid contributions amounted to £6000.
4. From 2019 pension contributions were paid into the pension scheme but were then stopped again in April 2021.
5. In March 2020 the claimant was paid under the furlough scheme 80 % of her salary until the termination of the scheme in September 2021. Her gross monthly pay under the scheme was £1750. However, for the months of June, July and September 2021 the claimant did not receive her furlough pay. She did receive her furlough pay in August 2021.
6. The claimant did not receive any further payments from the respondent and presented a claim form on 23 December 2021 for outstanding wages and pension contributions. On the 20 June 2022 the claimant applied to amend her claim to include redundancy pay and notice pay, having been informed by HMRC that her contract had been terminated.
7. At a case management preliminary hearing on 9 August 2022 I allowed the claimant to amend her claim to include notice pay and redundancy pay. The application to amend was made as soon as she was aware that she had been dismissed, having been notified by HMRC. It was not reasonably practicable for her to have presented her claim earlier as she believed she was still employed and the respondent had maintained the position that the claimant remained employed.
8. In January 2021 Mr ES Blackman sadly had, in summary, a major stroke. He remains in care unable to communicate. I find the claimant's effective date of termination to be 30 September 2021. From the limited information before me it appears that the claimant was an employee under the furlough scheme until September 2021. Once the scheme had expired the claimant was effectively dismissed as the company had ceased trading after MR ES Blackman suffered his stroke.
9. The respondent has not filed a response and the only communication to the Tribunal from the respondent has been through Mr ES Blackman's girlfriend. She notified the

Tribunal that according to the respondent the claimant remains employed, but the company ceased trading when Mr Blackman had his stroke.

10. A First Gazette notice was issued on 14 December 2021 that unless cause was shown the company would be dissolved in 2 months. Objections were received and strike off action has been suspended until 23 December 2022.
11. The claimant was informed that an interim deputy has been appointed to deal with Mr ES Blackman's personal affairs, but a deputy has not been appointed in relation to the respondent company.
12. Since no response was presented, despite a number of warnings from the Tribunal, and based on the available material and clarification by the claimant at the case management preliminary hearing, I conclude that a determination can properly be made of the claim and have issued this Judgment under rule 21 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

Employment Judge Isaacson

Date: 9 August 2022

JUDGMENT SENT TO THE PARTIES ON

09/08/2022

FOR THE TRIBUNAL OFFICE