



THE EMPLOYMENT TRIBUNALS

Claimant Mr RG Burns

Respondent SinCera Retail Solutions Ltd

**Heard at
On** Newcastle upon Tyne Hearing Centre (via CVP video link)
12 April 2022

Before Employment Judge Langridge

Representation:

Claimant Not present
Respondent Mr S Smith, Director

JUDGMENT

The claimant's claim for unpaid holiday pay is not well-founded and is dismissed.

REASONS

1. The parties were made aware on around 1 April 2022 that the hearing of this claim would take place today. The respondent prepared witness statements and a bundle of supporting documents, including a detailed spreadsheet of holiday pay calculations, in advance of the hearing. At no time since submitting his claim in January has the claimant provided to the respondent his own calculations or other information to explain why he believes his holiday pay was incorrectly paid following the termination of his employment.
2. On the afternoon of 11 April the claimant contacted the Tribunal to request that today's hearing be postponed, saying only that "I cannot make tomorrow and would like to make another date if possible". No explanation was provided as to why the claimant could not attend today. By an email sent at 15:15 yesterday the claimant was made aware that Judge Aspden had refused the postponement. He made no further contact with the Tribunal after that, and provided no documents or a witness statement.

3. After considering the circumstances as a whole I decided to proceed with the hearing in the claimant's absence. Given that the respondent had provided payslips and detailed calculations (checked by its external accountants), I took the view that it ought to be possible to achieve an outcome for both parties today.
4. Having accepted the written statements of Mr Smith and Mr Lee for the respondent, I heard oral evidence from Ms Robson, the company's bookkeeper, which supported the respondent's spreadsheet calculations. These showed that in respect of the holiday year beginning on 1 December 2021 and ending with Mr Burns' employment ending on 24 September 2022, the claimant had accrued but not taken 9 days' annual leave including contractual leave and one bank holiday. These 9 days were paid in full on 14 January 2022, before the claim was submitted on 29 January. The claim form identified no details showing what, if anything, further was owed.
5. The respondent enquired about whether it was entitled to seek its preparation costs incurred in defending this claim. I directed them that the Employment Tribunal Rules of Procedure 2013 give the Tribunal the power to award costs in certain limited circumstances, for example where a claim has been pursued unreasonably. Any application for costs should be made in writing to the Tribunal, setting out the grounds on which it is made, and copied to the claimant. The Tribunal may then decide whether a costs order should be made, either on a review of the papers or at a further short hearing for that purpose.

SE Langridge
Employment Judge Langridge

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON**

12 April 2022

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