



EMPLOYMENT TRIBUNALS

Claimant: Paul Evans

Respondent: Geesink Norba UK Ltd

Heard at: Cardiff (by video) **On:** 25 October 2024

Before: Employment Judge Housego

Representation

Claimant: In person

Respondent: Did not attend and was not represented

JUDGMENT

The Respondent is ordered to pay to the Claimant the sum of £13,277.28.

REASONS

1. The Claimant started work for the Respondent (before it went into liquidation) on 19 July 2023. He was UK Finance Manager, and his salary was £57,500 per annum.
2. His statutory statement of terms and conditions stated that the holiday year was the calendar year.
3. The provision for notice was that should the Respondent wish to terminate his employment it would give not less than three months' notice, any such notice period being three months from the first day of the calendar month after notice was given.
4. On 29 April 2024 the CEO of the Respondent wrote to the Claimant. He said that the parent company had been wound up, that the UK company had been loss making for some years and was insolvent and so was being placed into liquidation. It stated that the Claimant's employment was terminated on 23 April 2024 with immediate effect. It said that the Claimant had already been paid for the calendar month of April 2024 and so he had been overpaid by 7 days' pay.
5. The Claimant made application to the Insolvency Service for his notice pay. On 31 July 2024 the Insolvency Service wrote to the Claimant. They assessed his weekly pay at £1,102.74 a week. They said that they had paid the Claimant £523.36, for the period 24 April 2024 to 30 April 2024. This was the net pay for the one-week period of notice to which the Claimant was entitled under S86(1)(a) Employment Rights Act 1996, he

having been employed for more than one month but less than two years. $\pounds 1,102.74 \times 52 = \pounds 57,342.48$, which is almost exactly the figure in the contract of employment. It is unclear why there is a small difference.

6. Accordingly, the Claimant makes this claim for amount by which the contractual notice payment exceeds the amount he received.
7. In a letter dated 15 October 2024 the liquidator wrote to the Employment Tribunal. It states that the claim for the balance of notice pay not paid by the Insolvency Service will constitute an unsecured claim in the liquidation. It states that holiday pay and wages to the end of employment had been paid in full.
8. The consent of the liquidator is required for this claim to proceed. While the letter does not expressly state that the liquidator consents to this claim proceeding the letter was written to the Employment Tribunal and quotes the case reference. It envisages an unsecured claim being made by the Claimant in the liquidation. It does not object to the claim proceeding. It was helpful of the liquidator to write. I take this as consent for the claim to proceed.
9. The contractual period of notice not paid was exactly three months, as the Insolvency Service paid notice pay for the remainder of April, and the contract provided for three months from the first day of the month after notice was given.
10. That unpaid period of notice was three months, which is one quarter of a year. One quarter of $\pounds 57,500$ is $\pounds 14,375$. From that needs to be deducted the 7 days' pay for the last week in April. $\pounds 57,500 \div 365 = 157.53 \times 7 = \pounds 1,102.72$ (almost as the Insolvency Service calculated). That results in an amount due of $\pounds 13,277.28$. I order the Respondent to pay this sum to the Claimant.
11. The Claimant made a different calculation based on his net pay. That is not the correct approach, particularly as the Claimant's employment ended at the start of the financial year. The amount of tax payable on the notice payment would depend on his earnings for the rest of the financial year 2024/2025.
12. Accordingly, I make the award gross. The Claimant will prove for the amount in the liquidation and is unlikely to receive the whole amount. He can resolve the income tax and national insurance ramifications with HMRC once he has received the distribution from the liquidator.

Employment Judge Housego

Date 25 October 2024

JUDGMENT & REASONS SENT TO THE PARTIES ON

28 October 2024

Katie Dickson
FOR THE TRIBUNAL OFFICE