



THE EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Respondent

Mr S Barnes

AND

Quantum Power Connections Ltd

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Held at: Teesside **On:** 29 September 2017

Before: Employment Judge Johnson **Members:** Mrs C E Hunter
Mrs P Wright

Appearances

For the Claimant: Mr N Guss, Solicitor
For the Respondent: No attendance, No appearance

JUDGMENT

- 1 The claimant's complaint of breach of contract (failure to pay notice pay) is well-founded and succeeds. The respondent is ordered to pay to the claimant the sum of £544.61 damages for breach of contract. This is a net amount and the respondent shall be responsible for the payment of any income tax and national insurance contributions thereon.
- 2 The claimant's complaint of unlawful deduction from wages is well-founded and succeeds. The respondent is ordered to pay to the claimant the sum of £2,360.77 in respect of wages unlawfully deducted. That is a net amount and the respondent shall be responsible for the payment of any income tax and national insurance contributions thereon.
- 3 The claimant's complaint of unauthorised deduction from wages (failure to pay accrued holiday pay) is well-founded and succeeds. The respondent is ordered to pay to the claimant the sum of £217.85 in respect of accrued holiday pay.

That is a net amount and the respondent shall be responsible for the payment of any income tax and national insurance contributions thereon.

- 4 The claimant's complaint that he was not advised of his right to be accompanied at a disciplinary hearing, contrary to section 10 of the Employment Relations Act 1999, is well-founded and succeeds. The respondent is ordered to pay to the claimant compensation at the rate of two weeks pay in the total sum of £958.00.
- 5 The total sum ordered to be paid by the respondent to the claimant is therefore £4,081.23.

REASONS

- 1 The claimant was represented by Mr Guss, solicitor who called the claimant to give evidence. The claimant had prepared a formal, typed and signed witness statement containing all of the evidence which she intended to give to the Tribunal. That document was marked C2. Mr Guss had prepared a bundle of documents for the use of the Tribunal, which bundle was marked C1.
- 2 The respondent was not present when the case was called at 9:45am and was still not present at 10:00am. Mr Guss, when questioned by the Tribunal Judge, confirmed that he had been in contact with the respondent company during the course of the week and had been told that the Director dealing with the matter was unlikely to attend today's hearing as he "could not spare three hours to sit around at court". The Tribunal was satisfied that the respondent had been properly notified of the hearing date and that it was in accordance with the overriding objective to proceed in the respondent's absence.
- 3 Mr Barnes gave evidence under oath. He confirmed that his employment with the respondent had begun on 4 July 2016 and was ended on 28 February 2017.
- 4 On 27 February 2017 the claimant had been called into a meeting by Mr Michael Stewart, the Managing Director. The claimant was not informed in advance what the meeting was about. The claimant was not informed of his right to be accompanied to that meeting if it was one where some action may be taken against him. At the meeting, Mr Barnes was informed by Mr Stewart that his employment was being terminated for reasons related to his conduct. Mr Barnes has maintained throughout that he had not committed any act of misconduct.
- 5 The claimant was told that his employment would end the following day, 28 February.
- 6 As at 28 February, the claimant was owed his monthly wages for the month of February in the sum of £2,360.77. That sum remains unpaid. The claimant was also owed accrued holiday pay in the sum of £217.85. That sum remains unpaid. The claimant did not receive his notice pay in the sum of £544.61. That sum remains unpaid. The Tribunal accepted Mr Barnes' evidence in this regard and was satisfied that the respondent should be ordered to pay all of those sums.

- 7 Pursuant to section 10 of the Employment Relations Act 1999, the claimant as worker was entitled to be advised of his right to be accompanied to the meeting on 27 February 2017. The Tribunal is satisfied that the claimant was not advised of that right and was not permitted to be accompanied at the meeting. The Tribunal found that the respondent should pay to the claimant compensation calculated at the rate of two weeks pay (subject to the current statutory cap) in the total sum of £958.00.

EMPLOYMENT JUDGE JOHNSON

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON**

12 October 2017

JUDGMENT SENT TO THE PARTIES ON

13 October 2017

AND ENTERED IN THE REGISTER

G Palmer

FOR THE TRIBUNAL