



## THE EMPLOYMENT TRIBUNALS

Claimant  
Mr M Willis

Respondent  
Newline Polymers Ltd

EMPLOYMENT JUDGE GARNON  
MADE AT NORTH SHIELDS

ON 27<sup>th</sup> October 2017

### JUDGMENT (Liability and Remedy) Employment Tribunals Rules of Procedure 2013 –Rules 21and 37

- 1 The claim of wrongful dismissal (breach of contract) is well founded. I award damages to be paid by the respondent to the claimant of £306.92
2. The claim of unlawful deduction of wages is well founded. I order the respondent to repay to the claimant £1473.24 gross of tax and National Insurance
3. The claims for compensation for untaken annual leave is well founded. I order the respondent to pay compensation to the claimant of £589.30 gross of tax and National Insurance
4. The Hearing listed for the claim for a protective award on 6<sup>th</sup> November 2017 is postponed to a date to be fixed when the claimant's representative has responded to the point made in the final paragraph of the reasons below

### REASONS

1. The claim was presented and served. The response said it did not intend to resist the claim. The respondent is insolvent I am required by Rule 21 of the Employment Tribunals Rules of Procedure 2013 to decide on the available material whether a determination can be made and , if so, obliged to issue a judgment which may determine liability and remedy. I have in the claim form and schedule of loss sufficient information to enable me to find three of the claims proved on a balance of probability and to determine the accuracy of the sums claimed.
2. The law relating to unlawful deduction of wages is in Part 2 of the Employment Rights Act 1996 (the Act). The Working Time Regulations 1998 say in Regulation 14 that where a worker's employment is terminated during the course of his leave year, and on the date on which the termination takes effect the proportion he has taken of the leave to which he is entitled in the leave year under regulation 13(1) differs from the proportion of the leave year which has expired his employer shall make him a payment

in lieu of untaken leave calculated by a formula which the claimant's representative has correctly applied . Such sums are awarded gross of tax. The common law provides a contract of employment may be brought to an end by reasonable notice. Dismissal without such notice is termed "wrongful". Damages for wrongful dismissal are the net pay due during the notice period (see Addis v The Gramophone Company).

3. I cannot find the protective award claim proved on the information I have. Sections 188 (1) and (1A) of the Trade Union and Labour Relations ( Consolidation ) Act 1992 provide that where an employer is proposing to dismiss as redundant **20 or more employees at one establishment** within a period of 90 days or less, the employer shall consult about the dismissals all the persons who **are appropriate representatives** of any of the employees who may be affected by the proposed dismissals Section 189 , so far as material ,says where an employer has failed to comply with a requirement of section 188 and **there was no recognised union ,elected or other representatives** a complaint may be presented to an employment tribunal by any of the affected employees or by any of the employees who have been dismissed as redundant. I have no information about whether there was a recognised union (if there was only it can present the claim) or how many employees working at one establishment, were dismissed, and when. If the claimant wishes to provide information in writing I would consider making another Rule 21 judgment, but if they prefer a hearing one could be fixed at a later date. I would ask them to reply in 14 days

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**TM Garnon Employment Judge**

**Date signed 27<sup>th</sup> October 2017**

**SENT TO THE PARTIES ON**

**27 October 2017**

**MM Richardson  
FOR THE TRIBUNAL OFFICE**