



# EMPLOYMENT TRIBUNALS

**Claimant:** Matthew Guy, Samuel Richards & Michael Lindsell

**Respondent:** Quest Corporation Ltd

**Heard at:** Exeter **on:** 26 November 2018

**Before:** Employment Judge Housego

## Representation

**Claimant:** Messrs Guy and Richards in person, Mr Lindsell did not attend and was not represented.

**Respondent:** Did not attend and was not represented.

# JUDGMENT

1. The respondent made unlawful deductions from the wages of the 1<sup>st</sup> and 2<sup>nd</sup> claimants.
2. The deductions were in respect of wages unpaid and holiday entitlement unpaid.
3. The 1<sup>st</sup> and 2<sup>nd</sup> claimants left their employment because they were not being paid. The 1<sup>st</sup> claimant resigned (and was unfairly constructively dismissed) and the 2<sup>nd</sup> claimant was unfairly dismissed for asking to be paid. Both are entitled to 1 month's pay in lieu of notice.
4. The respondent is ordered to pay the 1<sup>st</sup> claimant unpaid wages of £3,966.67, holiday pay of £288.45 and notice pay of £2,083.33, which totals £6338.45.
5. The respondent is ordered to pay the 2<sup>nd</sup> claimant unpaid wages of £2,244.20, holiday pay of £196.15 and notice pay of £1,416.67, which totals £3,857.02.
6. The claims of the 3<sup>rd</sup> claimant are dismissed.

# REASONS

1. The 1<sup>st</sup> and 2<sup>nd</sup> claimants (to whom I refer as the claimants) attended in person and gave evidence. The 3<sup>rd</sup> claimant did not attend the hearing and sent no representations. Paul McGahan, managing director of the respondent emailed the Tribunal on Friday 23 November 2018 stating that he was not going to attend the hearing (and nor was anyone else from the respondent) and that the respondent ceased to trade in March 2018.
2. The 1<sup>st</sup> and 2<sup>nd</sup> claimants were employed by the respondent. This was a new business and the 1<sup>st</sup> claimant was recruited as a manager. He assisted in the setting up of the office before the start of his employment on 05 January 2018.
3. He recruited other members of staff, including the 2<sup>nd</sup> claimant, who commenced work on 09 January 2018.
4. The claimants were not paid by the respondent at all. After asking the managing director Paul McGahan for money, the 1<sup>st</sup> claimant was sent £200 by BACS transfer and the 2<sup>nd</sup> claimant £195 by BACS transfer, in both cases by Johanna Watson, who is the other director of the respondent, from her personal bank account. Neither of the claimants received any other money from anyone in respect of their work whilst employed by the respondent.
5. The 1<sup>st</sup> claimant was required to tell the other employees, including the 2<sup>nd</sup> claimant that their rate of pay would be reduced to national minimum wage. This was on 28 February 2018. The 2<sup>nd</sup> claimant raised the issue of non payment of wages with Paul McGahan, who dismissed him for so doing, on that day and without notice.
6. The 1<sup>st</sup> claimant reflected on the position and left on 05 March 2018, resigning because he had not been paid.
7. Neither claimant had taken any holiday since starting their employment with the respondent.
8. Both claimants are entitled to wages unpaid, unpaid holiday pay and notice pay, as the 2<sup>nd</sup> claimant was unfairly and wrongfully dismissed and the 1<sup>st</sup> claimant was constructively unfairly dismissed.
9. The 1<sup>st</sup> claimant's contractual annual salary was £25,000. He was employed for 2 months. That is 1/6 of a year, and so he should have been paid £4,166.67 for his period of employment. He received £200, and so is owed £3,966.67. His holiday entitlement is 1/6 of 5.6 weeks. He worked 5 days a week, so his annual entitlement was 28 days. His daily pay was £25,000 divided by 52 divided by 5 = £96.15, and so 3 days is £288.45. His notice pay entitlement is 1/12 of £25,000, which is £2,083.33. These total £6,338.45.
10. The 2<sup>nd</sup> claimant's contractual annual salary was £17,000. He was employed for 7 weeks and 2 days. His weekly salary was £326.92, and as he also worked 5 days a week his daily pay was £65.38. He was therefore due 7 x £326.92 = £2,288.44 + (2 x £65.38), £130.76, and these total £2419.20, less £195 received, which leaves £2,244.20. His holiday entitlement is also 3 days, which is £196.14. His notice pay is 1/12 of £17,000, which is £1,416.67. These total £3,857.02.

**Cases No: 1400926/2018, 1400927/2018 & 1400928/2018**

11. The claimants claimed for money due to them and not for unfair dismissal for asserting a statutory right.
12. As the 3<sup>rd</sup> claimant did not attend the hearing and give evidence, and because the burden of proof is on him to prove his claim, there is no evidence on which his claim could be found to succeed, on the balance of probabilities.
13. The respondent is still registered at Companies House, although there is a proposal to strike it off the register of companies.

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Employment Judge Housego

26 November 2018