



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms S J Finlayson-Sitch

**Respondent:** Cheyne18 Ltd

**Heard at:** Exeter                      **On:** 30 November 2018

**Before:** Employment Judge Housego

## Representation

**Claimant:** In person

**Respondent:** Did not appear

# JUDGMENT

1. The respondent made deductions from the wages due to the claimant.
2. The respondent is ordered to pay to the claimant £4,166.67.
3. The respondent is ordered to pay to the claimant £3,076.96 in respect of holiday accrued but not taken by the date she left the employment of the respondent.
4. For the avoidance of doubt these 2 sums add up to £7,243.63.

# REASONS

1. The respondent wrote to the Tribunal by email, below:

*"Re: 2202490/18 Finlay-Sitch v Cheyne 18 Ltd  
SK  
Sam Kirkwood <samkirkwood18@hotmail.com>  
Reply all  
Tue 27/11, 15:57  
BRISTOLET <bristolet@Justice.gov.uk>;  
[susanfs@btinternet.com](mailto:susanfs@btinternet.com)*

*Dear Sir/Madam,*

*Apologies, I thought I had replied.*

*We will not be attending court on Friday.*

*To reiterate, the company has ceased trading, is insolvent, has no bank accounts, no assets and is set to be struck off the register." (sic)*

I decided to proceed in the absence of the respondent. The claimant was sworn and adopted her witness statement and gave oral evidence. I accept her evidence as truthful.

2. The claimant was managing director of the respondent. Her salary was £50,000 a year, paid monthly.
3. The major shareholder of the company Sam Kirkwood failed to pay the claimant for October 2017. When she asked for payment he said that he was investigating gross misconduct but without saying what was being investigated. He has never given any idea (not even in the response to the claim) of what was said to be misconduct, and I find there was none. This was a fabrication.
4. On 01 November 2017 Mr Kirkwood wrote to the claimant to say that he was considering making her redundant, and requiring her to have a telephone conversation about this the next day. During that call, on 02 November 2017, he gave the claimant notice of termination of employment at the end of November 2017, which the claimant was to work.
5. Mr Kirkwood then subjected the claimant to bullying and harassment to the extent that on 07 November 2017 she was signed off sick by her GP with stress anxiety and depression, her sick note being sent in on 08 November 2017.
6. The harassment did not abate but worsened, and on 16 November 2017 the claimant resigned by email for that reason.
7. Subsequently the claimant was paid the salary due for October 2017.
8. The claimant has not been paid for November 2016.
9. The claimant had accrued 16 days holiday entitlement when she left, and has not been paid for it.
10. The claimant was initially given 1 month's notice to expire at the end of

November 2017, and then on 16 November 2017 was unfairly constructively dismissed by the respondent. She is entitled to notice pay for November 2018.

11. The respondent has subsequently paid to the claimant the salary she was due for October 2017.
12. The monthly salary due for November 2017 is  $\frac{1}{12}$  of £50,000, which is £4,166.67.
13. The holiday pay due to the claimant is £50,000 divided by 12, divided by 5 (as the claimant worked 5 days a week), and multiplied by the 16 days accrued entitlement, which totals £3,076.96.
14. I order the respondent to pay to the claimant these 2 sums, which total £7,243.63.

Employment Judge Housego

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Date: 30 November 2018