



EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case No: 4107112/19

Held at Aberdeen on 15 August 2019

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Employment Judge: N M Hosie

Mr J Spence

**Claimant
In Person**

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Westdyke Joinery Ltd

**Respondent
Represented by:
Mr M Paton,
Director**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Tribunal is that:-

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1. the respondent shall pay to the claimant the sum of One Thousand, Five Hundred and Twenty-Four Pounds (£1,524), as a redundancy payment;
2. the claim under s.23 of the Employment Rights Act 1996 is well-founded and the respondent shall pay to the claimant the sum of Six Hundred and Seven Pounds (£607), subject to the appropriate deductions in respect of Income Tax and National Insurance, as unlawful deductions from wages;
3. the respondent shall pay to the claimant the sum of One Thousand and Sixteen Pounds (£1,016), in respect of the respondent's failure to provide the claimant with a written statement of his terms and conditions of employment.

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E.T. Z4 (WR)

REASONS

1. The claimant, James Spence, brought various claims following the
5 termination of his employment by the respondent Company. Helpfully, the
respondent's Director, Mr M Paton, submitted a Response Form in which he
intimated that the claims were not disputed. He said this by way of
explanation for the non-payment:-

10 *"Westdyke Joinery Ltd ceased trading on 21 March 2019.*

The company was insolvent and cannot pay its debts as they fall due.

It does not have assets, that if sold would pay off the debt due to the claimant.

15 *The company cannot afford to pay for liquidation and therefore as a company
director I made an application on 1 May 2019 to Companies House to strike
off the Company and remove the Company name from their Register.*

20 *All creditors were advised of the application."*

2. This was confirmed by Mr M Paton at a preliminary hearing to consider case
management on 9 August 2019.

- 25 3. I now deal with each of the complaints comprising this claim.

Redundancy payment

4. The respondent Company has ceased trading. I was satisfied that when the
30 claimant was dismissed there was a redundancy situation. Accordingly, the
claimant is entitled to a redundancy payment.

5. At the time of his dismissal, he was 41 years of age and had been employed
by the respondent for 3 complete years. He earned, on average, £607 gross
35 per week. However, at the time a "week's pay" was limited to £508.

6. He is entitled, therefore, to a redundancy payment of **£1,524** (3 x £508).

Unpaid wages

5 7. When the claimant was dismissed he received pay in lieu of notice. However, he did not receive the one week's wages which had been retained by way of a so-called "lie week".

10 8. He is entitled, therefore, to a payment of **£607**, subject to the appropriate deductions in respect of Income and Tax and National Insurance, in respect of unpaid wages.

Written particulars of employment

15 9. The claimant did not receive a written statement of his terms and conditions of employment. As he has been able to bring other successful claims, he is entitled to an award of 2 weeks' pay which amounts to **£1,016** (2 x £508).

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Employment Judge:	Nicol Hosie
Date of Judgment:	15 August 2019
Date sent to Parties:	19 August 2019

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