



EMPLOYMENT TRIBUNALS

Claimant

Mr Andrew Nicholls

v

Respondent

(1) Elm Heritage of Oundle Limited;
(2) Elm Heritage Enterprise Limited

Heard at: Bury St Edmunds

On: 12 November 2020

Before: Employment Judge K J Palmer, sitting alone

Appearances:

For the Claimant: In person

For the First Respondent: Did not attend and was not represented

For the Second Respondent: Did not attend and was not represented

JUDGMENT

It is the Judgment of this Tribunal that the Second Respondent be joined to these proceedings. The Claimant's claims succeed and Judgment is given jointly and severally against the First and Second Respondents as follows:

1. The Claimant suffered an unlawful deduction on wages and a declaration is made to that effect. In this respect the Claimant is awarded the sum of **£1,147.39**.
2. The Claimant is owed monies in respect of holiday pay and Judgment is award in that respect in the sum of **£460.30**.
3. The Respondents dismissed the Claimant in breach of contract and damages in that respect are awarded in the sum of **£577**.
4. The Claimant is therefore awarded the **Total sum of: £2,184.69** jointly and severally against both Respondents.

REASONS

1. This matter came before me today as an unlawful deduction of wages and breach of contract claim and a failure to pay holiday pay.
2. The Claimant was employed by Elm Heritage of Oundle Limited as Operations Manager of the Chequered Skipper Public House in Ashton, Oundle, near Peterborough.
3. He worked there from 1 March 2019 to 13 June 2019.

4. Initially he was paid by Elm Heritage of Oundle Limited and then part way through his employment, without explanation, he was receiving payment from Elm Heritage Enterprise Limited.
5. The Claimant pursues a claim in this Employment Tribunal pursuant to the termination of his employment on 13 June 2019. He pursues claims for unpaid wages, unpaid holiday pay and non-payment of notice pay.
6. This Hearing was conducted by Cloud Video Platform (CVP) in the Bury St Edmunds Employment Tribunal.
7. Only the Claimant attended. The Respondent did not attend and there appears to be no explanation as to why the Respondent did not attend.
8. I had before me some sporadic documentation emailed to me by the Watford Employment Tribunal which essentially consisted of the Claimant's ET1, a letter he subsequently wrote to the Tribunal detailing the sums he believed he is owed and what appears to be a partially completed ET3. I did not have the file in front of me and so was not able to understand the history of this matter.
9. However, it appeared to me that there had been at some point a Rule 21 default Judgment entered which had subsequently set aside on application by the Respondents.
10. On questioning the Claimant, it appeared clear that he had actually been employed by Elm Heritage of Oundle Limited who owned the pub The Chequered Skipper. He was employed as Operations Manager of that pub and was instrumental of getting the pub up and running and started.
11. He worked only for a short period of time from 1 March 2019 to 13 June 2019 when he was dismissed by the Respondent.
12. He had actually given notice on 13 June 2019 that he wished to leave. He had purported to give one month's notice. However, the Respondents indicated that they did not wish him to continue and dismissed him on that day.
13. There was some confusion as to who he was employed by. He said initially, although not receiving pay slips, his bank statements indicated that he had received his salary from Elm Heritage of Oundle Limited, but the last pay slip he received was from Elm Heritage Enterprise Limited.
14. In the absence of any explanation from the Respondent I therefore join in Elm Heritage Enterprise Limited as the Second Respondent in these proceedings. The First Respondent is Elm Heritage of Oundle Limited.

The Claimant's Claims

15. In a letter to the Tribunal, the Claimant set out the nature of the sums he indicated he was owed. In essence he was employed as Operations Manager on a salary of £30,000 per annum. He worked the whole of

March, April and May. In March and April, he has calculated that he was underpaid. In March by £139.83 and in April by a much larger sum of £731.38. He said he was paid correctly in May.

16. In June, the Claimant worked the first and second of June and then took holiday until 12 June 2019. On 13 June 2019, he decided to hand in his notice giving a month's notice. The Respondents, his employers, dismissed him on that day and he was paid nothing for June. He therefore is owed outstanding pay for days worked in June and for the holiday which he took in June for which he was also not paid.
17. Having discussed with him and heard evidence from him as to what occurred, I am happy to accept his version of events and the sums he says are outstanding. In terms of holiday pay, he is owed £460.30 as well as wages for June £276.18, plus the underpayments in March and April as detailed above.

Notice

18. The Claimant was never given a Contract of Employment. He purported to give a month's notice on 13 June 2019 but was dismissed immediately. That dismissal amounts to a breach of contract and he is entitled to damages based on the notice he would have been given had the Respondents not been in breach. He is entitled to statutory notice of one week. In the absence of a contract, he is not entitled to the month notice he seeks. I therefore award him 1 week's gross pay of £577.
19. The total therefore payable, is **£2,184.69**. I give Judgment in that amount against both Respondents, jointly and severally.

Employment Judge K J Palmer

Date: 18 November 2020

Judgment sent to the parties on

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For the Tribunal office