



EMPLOYMENT TRIBUNALS

Claimant
Mr V Chrysopoulos

and

Respondent
Mr S Sotirakis

DEFAULT JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

1. The Respondent has failed to file an ET3 with grounds of resistance in this case.
2. The claims for notice pay, holiday pay and unpaid wages succeed and the remedy to which the Claimant is entitled will be determined at a Remedy Hearing.
3. The Tribunal does not have jurisdiction to hear the complaint of unfair dismissal, which is accordingly struck out.

REASONS

1. The Claimant worked for the Respondent as a General Bar and Restaurant Manager from 11 June to 12 October 2021. Having entered ACAS Early Conciliation between 17 November and 14 December 2021, he submitted a claim form (ET1) the following day, 15 December 2021. The Respondent did not submit a defence (ET3).
2. The case was listed for a Full Merits Hearing on 4 May 2022. Neither party attended. The Claimant was ordered to confirm the name of the person for whom he worked and their postal address. The Respondent appeared to be an individual and the address given for him appeared to be a bar/restaurant called Reserve. The Claimant was ordered to send in a copy of any contract or statement of terms and conditions of employment.
3. The Claimant has confirmed that he had no contract or statement of terms and conditions. He has sent in an email confirming that he claims against Mr Sotirakis and that Mr Sotirakis is managing the Reserve Restaurant. The Claimant had also mentioned “Sky 23 Limited” because Mr Sotirakis had told him he owned that company as well. The email was not sent by the date specified but the delay (of less than two weeks) is not material. The Respondent has not sought to serve a defence in the meantime.

4. In the circumstances, the Tribunal can be satisfied that the claim was correctly served. No response having been received, Judgment is entered in default against the Respondent.
5. The Claimant has also sent in a copy of a letter, undated and using what appears to be a template, informing the Respondent that he is owed money totalling £1,750. The letter says it is a “formal schedule of loss setting out of the amounts”. It is not. It is impossible to work out from the letter how much the Claimant is owed under each head, or for what period(s) or whether the amounts are net or gross. Since it is therefore not possible to calculate the correct remedy, there will have to be a hearing to decide how much the Respondent has to pay. That will be listed before the Employment Tribunal (a Judge sitting alone) for two hours, on a date to be notified. The Remedy Hearing will take place remotely, by CVP, Teams or similar. Joining instructions will be sent to the parties the day before the Remedy Hearing. A Greek interpreter will be made available for the Claimant, at HMCTS expense.
6. The Claimant must send in by email, at least seven days before the Remedy Hearing, a breakdown showing how much he is owed for a) notice pay b) holiday pay and c) unpaid wages, and the dates on which he says those amounts became payable. He must also send in any records showing that he is owed these amounts (e.g. WhatsApp pictures that he says he has already sent the Respondent, work rosters, job advert, offer letter etc). It will also be helpful if he can set out in a short statement saying why he is owed each of the amounts claimed. If he does not do these things, or if he fails to attend the Remedy Hearing without good reason, it may not be possible to make an award.
7. Since the Claimant only worked for the Respondent for four months and has not indicated that his dismissal was for an impermissible reason as set out in the Employment Rights Act 1996 (ERA), the Tribunal does not have jurisdiction to hear his complaint of unfair dismissal (section 108(1) ERA).
8. The Employment Judge who deals with the Remedy Hearing may also decide whether there were any aggravating features to the breach(es) of the Claimant’s rights and, if so, whether to impose a financial penalty on the Respondent and in what sum, in accordance with section 12A Employment Tribunals Act 1996.

Employment Judge Norris

Date: 1 June 2022
JUDGMENT SENT TO THE PARTIES ON

01/06/2022
AND ENTERED IN THE REGISTER

FOR THE TRIBUNAL OFFICE