



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr J Perkins  
**Respondent:** Morgarten Restaurants Lakeside Limited  
**Heard at:** East London Hearing Centre  
**On:** 10 November 2022  
**Before:** Employment Judge Russell

**Representation**  
**Claimant:** In Person  
**Respondent:** Did not attend

## JUDGMENT

1. Morgarten Restaurants Lakeside Limited was the Claimant's employer and is substituted for Bourgee Limited as Respondent.
2. The claim for one weeks' notice pay succeeds. The Respondent must pay the Claimant the sum of £519.23.
3. The claim for holiday pay succeeds. The Respondent must pay the Claimant the sum of £1,194.28 (11.5 days @ £103.85 gross).
4. The total sum to be paid by the Respondent therefore is £1,713.51.

## REASONS

1 By claim form presented to the Tribunal on 11 August 2022, the Claimant brought claims for arrears of pay, breach of contract in respect of notice pay and unpaid holiday pay. All claims arise from his employment as a chef from 27 December 2021 to 15 May 2022. His monthly salary before tax was £2250 and he also received additional credit card tips although the sums were variable and difficult to predict.

2 The Claimant gave evidence to me today by way of affirmation. He confirmed the contents of his claim form. The Respondent did not present a Response within the prescribed time limit. It did provide a draft Response but was not granted an extension of

time. The Respondent had notice of today's hearing but did not attend. There were no emails or telephone calls from the Respondent. I caused my clerk to send an email to the Respondent's director, Mr Welling, to inform him that the hearing was proceeding. The hearing was delayed until 12.20pm (it had been due to start at 12pm). I decided that it was in the interests of justice to hear the claim but to put to the Claimant the facts averred by the Respondent in the draft Response in order to decide whether there was any substance to them.

3 The Claimant's evidence was that he was absent from work due to sickness from 7 May 2022. He was not happy in his employment as there was a history of late payment and the Claimant says that the Respondent was not happy about his sickness absence. He decided that he would terminate his employment. He spoke to Chris, the General Managers, and asked how much notice he was required to give. Chris said one week and I accept the Claimant's evidence that he then gave the one week's notice required under his contract of employment as confirmed by Chris.

4 The Claimant's evidence was that he had not taken any holiday during his short period of employment. He did attend race meetings, as averred by the Respondent, but I accept his evidence that these took place on his scheduled days off on his usual rota and not as holiday. It follows therefore that pro rata his entitlement to holiday at the date of termination was 11 and a half days.

5 On his claim form, the Claimant named Bourgee Limited as the Respondent. The unaccepted Response says that this is incorrect, the employer and therefore right Respondent is Morgarten Restaurants Lakeside Limited. The Claimant was able to check a payslip today and has confirmed that the correct Respondent is Morgarten Restaurants Lakeside Limited. I have substituted them as Respondent in place of Bourgee Limited.

6 At the conclusion of the hearing at 12.45pm, there had still been no contact from the Respondent, and I gave Judgment with oral reasons. In the event that there is a good reason for the Respondent's failure to attend, it must set out that reason in writing and provide evidence in support within 14 days. I will then decide whether it is in the interests of justice to reconsider my Judgment.

**Employment Judge Russell**  
**Date: 16 November 2022**