



EMPLOYMENT TRIBUNALS

Claimant: Mr T Borzecki

Respondent: Let's Construction Limited

At: London Central Employment Tribunal

Before: Employment Judge Nicolle in Chambers

JUDGMENT

1. The Respondent has failed to file an ET3 Grounds of Resistance in this case.
2. Having considered the ET1, Employment Judge Nicolle has decided that a determination of the claim can properly be made without a hearing and the Judgment of the Tribunal, made under Rule 21 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 is as set out below.
3. The Respondent has unlawfully failed to pay wages in the gross sum of £1,712.96.
4. The Respondent has still to pay the Claimant accrued holiday entitlement in the gross sum of £608.
5. The Respondent has failed to pay the Claimant his statutory entitlement to 2 weeks' notice pay in the net sum of £760.
6. As the Claimant was unfairly dismissed he is entitled to a basic award of £1,350 together with a compensatory award of £6,847.50, which reflects a period of 13 weeks from the Claimant's dismissal on 18 May 2020 until he was able to mitigate his loss with effect from 17 August 2020, and which includes a 25% uplift pursuant to S.207 (2) (c) of the Trade Union and Labour Relations (Consolidation) Act 1992.

7. The Tribunal orders the Respondent to pay unpaid wages, holiday pay, notice pay and unfair dismissal compensation to the Claimant of £9,928.46.
8. Where payments of wages are made gross the Claimant will be responsible for all applicable tax and employee national insurance contributions.

Recoupment Regulations

9. The total amount over the monetary award is £9,928.46.
10. The amount of the prescribed element is £4,565.
11. The dates of the period to which the prescribed element is attributable are 1 June 2020 until 31 July 2020.
12. The amount by which the monetary award exceeds the prescribed element is £5,363.46.

Employment Judge Nicolle

21 January 2021

Sent to the parties on:

29th Jan 2021.

For the Tribunal:

OLU

Case No: 2206125/2020 Mr Thomas Borzecki v Let's Construction Limited ANNEX TO THE JUDGMENT (MONETARY AWARDS) Recoupment of Benefits

1. The following particulars are given pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349.
2. The Tribunal has awarded compensation to the Claimant, but not all of it should be paid immediately. This is because the Secretary of State has the right to recover (recoup) any jobseeker's allowance, income-related employment and support allowance, universal credit or income support paid to the Claimant after dismissal. This will be done by way of a Recoupment Notice, which will be sent to the Respondent usually within 21 days after the Tribunal's judgment was sent to the parties.
3. The Tribunal's judgment states: (a) the total monetary award made to the Claimant; (b) an amount called the prescribed element, if any; (c) the dates of the period to which the prescribed element is attributable; and (d) the amount, if any, by which the monetary award exceeds the prescribed element.
4. Only the prescribed element is affected by the Recoupment Notice and that part of the Tribunal's award should not be paid until the Recoupment Notice has been received. The difference between the monetary award and the prescribed element is payable by the Respondent to the Claimant immediately.
5. When the Secretary of State sends the Recoupment Notice, the Respondent must pay the amount specified in the Recoupment Notice to the Secretary of State. This amount can never be more than the prescribed element of any monetary award. If the amount is less than the prescribed element, the Respondent must pay the balance to the Claimant. If the Secretary of State informs the Respondent that it is not intended to issue a Recoupment Notice, the Respondent must immediately pay the whole of the prescribed element to the Claimant.
6. The Claimant will receive a copy of the Recoupment Notice from the Secretary of State. If the Claimant disputes the amount in the Recoupment Notice, the Claimant must inform the Secretary of State in writing within 21 days. The Tribunal has no power to resolve such disputes, which must be resolved directly between the Claimant and the Secretary of State.