

THE INDUSTRIAL TRIBUNALS

CASE REF: 9749/19

CLAIMANT: Christopher Higgins
RESPONDENT: Marmic Paving Limited

DECISION

The claimant's redundancy pay claim is well-founded. It is declared that the respondent is liable to make a redundancy payment of £14,045.00 to the claimant.

CONSTITUTION OF TRIBUNAL

President (sitting alone): Ms E McBride, CBE

APPEARANCES:

The claimant submitted written representations together with documentation for consideration at the hearing.

Ms M Kelly attended at the tribunal on behalf of the respondent. She left the tribunal before this case had been reached. Even if Ms Kelly had been present when the hearing of the case commenced, as the respondent had not presented a response to the claimant's claim, the respondent was not entitled, in accordance with Rule 9 of the Industrial Tribunal Rules of Procedure 2005, to take any part in the proceedings except to –

- (a) make an application under rule 33 (review of default judgements);
- (b) make an application under rule 35 (preliminary consideration of application for review) in respect of rule 34(3)(a), (b) or (e);
- (c) be called as a witness by another person; or
- (d) be sent a copy of a document or corrected entry in accordance with rule 8(4), 29(2) or 37,

and in these Rules the word "party" or "respondent" includes a respondent only in relation to his entitlement to take such a part in the proceedings, and in relation to any such part which he takes.

Paragraph 2 of the notice of hearing which was issued to the claimant and the respondent states:

“This Notice of Hearing is issued to each party to the proceedings but it does not imply that each party has the right to appear or to be represented before the tribunal, to give evidence, call or question witnesses and/or address the tribunal. In particular a respondent who has not entered a response is not entitled to take a full part in the proceedings and a respondent who has been debarred from defending altogether does not have any right to take part.”

1. This decision was made following consideration of:
 - (i) the claimant’s claim form;
 - (ii) the claimant’s written representations;
 - (iii) written documentation setting out the regular premiums in respect of pension which were paid on a regular basis between 26 October 1998 and 25 August 2014 by the claimant and respondent; and
 - (iv) bank statements of transactions from 1 January 2014 to 29 March 2019 which include details of the nett weekly wages paid to the claimant throughout that period.
2. Having considered those documents, the tribunal is satisfied that the claimant was dismissed by the respondent on the ground of redundancy on 1 March 2019 with immediate effect and without any redundancy payment.
3. The tribunal is therefore satisfied that the claimant’s redundancy pay claim is well-founded and declares that the respondent is liable to make a redundancy payment of £14,045.00 to the claimant.

The amount of the redundancy payment is based on the following information:

- (i) gross weekly pay: £530.00. Although it is clear from paragraph 6.2 of the claimant’s claim form and his bank statements that his gross weekly wage exceeded £530.00, that was the maximum amount of “a week’s pay” i.e. gross pay for the purpose of calculating a redundancy payment at the date of the claimant’s dismissal on 1 March 2019.
- (ii) number of actual completed years of service: 20. Although the claimant stated at paragraph 7.4 of his claim form that he had worked for the respondent for at least 35 years with no breaks in his employment, the maximum number of years that can be taken into account for the purpose of calculating a redundancy payment is 20.
- (iii) age on date of dismissal: 54.
- (v) multiplier for calculating redundancy pay based on age at date of dismissal and a maximum of 20 years’ service: 26½.

$$£530.00 \times 26\frac{1}{2} = £14,045.00.$$

4. Although the claimant stated in his written representations that he was seeking a payment in lieu of notice as well as a full redundancy payment, he did not make a claim for a payment in lieu of notice in his claim form. The tribunal has therefore no jurisdiction to consider and determine that claim.
5. This is a relevant decision for the purposes of the Industrial Tribunal (Interests) Order (Northern Ireland) 1990.

This is a relevant decision for the purposes of the Industrial Tribunals (Interest) Order (Northern Ireland) 1990.

President:

Date and place of hearing: 13 September 2019, Belfast.

Date decision recorded in register and issued to parties: