



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4111019/2018

5

Held in Glasgow on 21 September 2018

Employment Judge: Mary Kearns

10 **Mr Richard Hunter**

**Claimant
In person**

Xel Manufacturing Services Ltd

**Respondent
Not present
& not represented**

15

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal was that:

20

(1) The respondent dismissed the claimant by reason of redundancy and is ordered to pay to the claimant a redundancy payment of **Two Thousand Six Hundred and Sixty Three Pounds (£2,663)**.

25

(2) The respondent breached the claimant's contract of employment by failing to pay him in lieu of notice. The respondent is ordered to pay to the claimant damages in the sum of **One Thousand Seven Hundred and Seventy Five Pounds (£1,775)**.

(3) The claimant's claim for holiday pay is dismissed.

30

REASONS

1. The claimant was employed by the respondent as a production operator from 4 March 2013 until 7 May 2018 when he was dismissed for redundancy. At the date of dismissal the claimant was aged 46 and had completed five years' continuous employment with the respondent. He presented an application to

E.T. Z4 (WR)

the Employment Tribunal on 5 July 2018 in which he claimed a redundancy payment, notice pay and holiday pay.

2. The respondent presented a response to the claim in which they stated that they were not defending the claim. They explained that they had stopped trading on 7 May 2018 as their main customer had refused to pay outstanding monies due to them.
3. The claimant was aged 41 or over for the five years of his employment. His normal gross pay was £355 per week. He is entitled to a redundancy payment of $5 \times 355 \times 1.5 = £2662.50$ or £2,663 rounded to the nearest whole pound.
4. The claimant received no notice of his dismissal. He is entitled to five weeks pay in lieu of notice. $5 \times £355 = £1,775$.
5. The claimant claimed holiday pay. The respondent's holiday year runs from 1 January to 31 December in any year. The claimant's employment terminated on 7 May 2018. At that point he was 18 weeks into the holiday year. His pro-rated holiday entitlement from the start of 2018 until the termination of his employment is $5.6 \text{ weeks} \times 18/52 = 1.94 \text{ weeks}$ or 9.69 days. The claimant had taken 9.5 days paid holiday in the year to 7 May 2018. He had therefore used his entitlement and had no holiday accrued but untaken at the date of termination. He is not due any holiday pay and his claim for holiday pay is dismissed.

Employment Judge: Mary Kearns
Date of Judgment: 28 September 2018
Entered in register: 12 October 2018
and copied to parties