



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr V Molnar

v

Mr H Power

Heard at: Birmingham

On: 9 November 2018

Before: Employment Judge Broughton

Appearances:

For Claimant: written representations

Respondent: Mr T McGuggon

JUDGMENT

The Claimant's claims of unpaid holiday pay and breach of contract fail and are dismissed.

Summary Reasons

The claimant received holiday pay of £764.40 (net) in February 2018 and there was no evidence to suggest that any further payment was due. On the evidence before me the claimant had received his full entitlement in relation to the 3 months he had worked as an appropriate percentage of his pay.

The claimant's claim that he had orally agreed a notice period of 1 month was denied and seemed both unlikely and inconsistent with contemporaneous documentation, including his email to the respondent of 9 October 2017. He was, therefore, at most, only entitled to a notice period of 1 week.

In any event, the respondent adduced sworn evidence of serious breaches of duty by the claimant in relation to the finances and care of the respondent which I will not repeat here. He took advantage of the respondent's hospitality and good nature whether he believed he had his informed consent, or otherwise.

These resulted in Social Services having serious safeguarding concerns such that the claimant was prohibited from caring for the respondent. As a result, the claimant was dismissed by the respondent on 8 October 2017 with immediate effect.

I heard oral evidence from the respondent, his sister and his care assistant. I have also considered all of the written representations from and on behalf of the claimant and have given them appropriate weight.

It was not in dispute that the claimant had initially cared for the respondent very well.

However, I am satisfied that, on the balance of probabilities, the claimant began to abuse his position of trust in circumstances where the respondent, as a vulnerable adult, was unable to object. This included arranging direct payments from the respondent to the claimant and the claimant having his girlfriend over to stay in the respondent's house during periods when the claimant was working. It was also alleged that there was a significant deterioration in the claimant's attitude and the level of care provided.

Such actions were capable of amounting to gross misconduct and the respondent was entitled, as a result, to dismiss summarily.

Employment Judge Broughton
Date: 9 November 2018

Note:

Further reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.