



EMPLOYMENT TRIBUNALS

Claimant: Mr S Miller

Respondents: (1) SJS print Services Limited
(2) Secretary of State for Business, Energy & Industrial Strategy

Heard at: East London Hearing Centre

On: 10 August 2018

Before: Employment Judge Foxwell

Representation

Claimant: In person
First Respondent: No attendance
Second Respondent: Written representations

JUDGMENT

1. The Claimant was dismissed by the First Respondent by reason of redundancy and is entitled to a redundancy payment of **£9,046.50**.
2. It was not reasonably practicable for the Claimant to present his claims for notice and holiday pay within the primary time limits contained in the Extension of Jurisdiction Order 1994 and Working Time Regulations 1998 and these claims were presented within a reasonable period of it becoming practicable to do so.
3. The Claimant was dismissed in breach of contract in respect of notice by the First Respondent and it is ordered to pay damages to the Claimant in the sum of **£9,456.92**.
4. The First Respondent has failed to pay the Claimant's holiday entitlement and is ordered to pay the Claimant the sum of **£2,837.16**.
5. The claims against the Second Respondent are rejected under Section 18A of the Employment Tribunals Act 1996, the Claimant having failed to obtain an early conciliation certificate naming the Secretary of State.

REASONS

1. The Claimant, Mr Stephen Miller, was employed by the First Respondent, SJS Print Services, between 1 May 2004 and 23 September 2017 when he was dismissed upon the First Respondent ceasing trading. I am satisfied that the reason for his dismissal was redundancy.
2. The Claimant presented this claim to the Tribunal on 16 May 2018 having gone through early conciliation with the First Respondent on 15 & 16 May 2018. He did not go through early conciliation with the Second Respondent. I have rejected the claim against the Second Respondent on this basis.
3. I am satisfied that the Claimant's claim for a redundancy payment was presented within the time limit contained in section 164(2) of the Employment Rights Act 1996. I find that the claims for notice and holiday pay were presented outside the primary time limits contained in the Extension of Jurisdiction Order 1994 and Working Time Regulations 1998. Accordingly, the Tribunal would only have jurisdiction to hear them were it satisfied that it had not been reasonably practicable to present the claims within the primary period and that they were presented within such further period as was reasonable.
4. I accept the Claimant's explanation that he was unaware of the need to bring a claim for notice and holiday pay in the Tribunal in circumstances where it was unclear whether his former employer was in a formal insolvency process (which it is not) and that he reasonably believed that it was sufficient to make a claim to the Secretary of State (which he did). I find that he presented this claim within a reasonable time of learning that the Secretary of State would not meet his claims for notice and holiday pay.
5. The Claimant was aged 52 at the date of his dismissal (born 14 July 1965) and has 13 complete years' service. He earned £788.07 gross per week (£3,415 gross pcm) but the statutory cap on a week's pay will apply to his claim for a statutory redundancy payment; this was £489 at the date of his dismissal. I find that he was entitled to 12 weeks' statutory notice and accept his evidence that he had 18 days' accrued and untaken holiday at the time of dismissal at a daily rate of £157.62 gross.
6. Accordingly, I calculate his claims as follows:

a. Redundancy: 18 x £489	=	£9,046.50
b. Notice; 12 x £788.07	=	£9,452.92
c. Holiday pay: 18 x £157.62	=	£2,837.16

Employment Judge Foxwell

10 August 2018