



EMPLOYMENT TRIBUNALS

Claimant: Mr A Richardson
Respondent: Pie & Pint Inns (The Cherry Tree) Limited
Heard at: East London Hearing Centre
On: Monday 15 June 2020
Before: Employment Judge Russell

Representation
Claimant: In person
Respondent: Did not attend and was not represented

JUDGMENT

The Judgment of the Tribunal is that:

1. The claim of breach of contract in respect of notice pay succeeds.
2. The Claimant is entitled to 52 hours pay at £9.50 an hour, in the total sum of £494.00.

REASONS

1 This has been a remote hearing by telephone which was not objected to by the parties. A face to face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. I considered the pleadings and the documents held on the Tribunal file.

2 By a claim form presented to the Tribunal on 23 January 2020, brings a claim of breach of contract in respect of notice pay in the final week of his employment. The Respondent resists the claim in part but has not attended the hearing today. Having reviewed the file I was satisfied that the Respondent received notice of the hearing and, by letter dated 6 May 2020, the telephone access details. It is fair and just to proceed in the Respondent's absence.

3 The Claimant agrees that the correct name of the Respondent is Pie and Pint Inns (The Cherry Tree) Limited.

4 The Claimant was employed from 27 April 2019 until 8 December 2019 as a chef de partie at the Cherry Tree pub. He gave his employer written notice on Monday 2 December 2019. There was no written contract of employment but, given the Claimant's length of service, the appropriate period of notice was one week. The Claimant usually worked five days a week. His shift pattern varied but on average in the three months preceding the termination of his employment his normal working hours were 52 hours per week in total.

5 The Claimant worked three of the final five days of his employment but was unfortunately unable to work the remaining two due to sickness. The Respondent did not pay him the notice due to him. In its Response, the Respondent accepts that the Claimant was owed 17 hours' pay at £9.50 per hour but no further sums because the Claimant did not work his full notice period.

6 I have had regard to the provisions of the Employment Rights Act 1996, sections 88. The Claimant's normal working hours were 52 hours per week. There was a contract of employment in force during the period of notice. The Claimant was unable to work his normal working hours as he was incapable of work because of sickness or injury. In the circumstances then the Respondent is liable to pay the Claimant not only for the days worked but also for those when he was absent due to sickness. In the circumstances I award the Claimant £494.00 (52 hours at £9.50 per hour). As the sum is calculated on gross pay, the Claimant will be liable to account for tax and National Insurance in the ordinary way and should notify the Revenue accordingly.

Employment Judge Russell
Date: 15 June 2020