



EMPLOYMENT TRIBUNALS

Claimant: Mr D Sullivan
Respondents: Advanced Marble & Granite UK Limited
Heard at: Newcastle Employment Tribunal (remotely by CVP)
On: 05 March 2024
Before: Employment Judge Sweeney

Appearances

For the Claimants, In person

For the Respondent, Kirsten Riddell

JUDGMENT ON LIABILITY

1. The Claimant's claim for a redundancy payment under section 163 Employment Rights Act 1996 is well-founded and succeeds.
2. The Claimant's claim of unfair dismissal is well-founded and succeeds.
3. The Claimant's claim for unlawful deduction of wages / notice pay is not well-founded and is dismissed.
4. The Claimant's claim for holiday pay is dismissed upon withdrawal.
5. At the date of commencement of proceedings, the Respondent was in breach of section 1 Employment Rights Act 1996 requiring provision of a written statement of particulars of employment.

REMEDY

Redundancy payment

6. The Respondent is ordered to pay to the Claimant a statutory redundancy payment in the sum of **£625** (being the difference between the amount payable, £5,626.80 and the amount actually paid, £5,001.80).

Unfair dismissal

7. Pursuant to section 122(4) Employment Rights Act 1996, the Basic Award is reduced to zero by the amount of the statutory redundancy payment. The Tribunal considers it is not just and equitable to make a compensatory award as the Claimant would have been fairly dismissed in any event one week later but would have been entitled to no payment in that period due to his refusal to work during his notice period.

Section 38 Employment Act 2002

8. The Respondent is ordered to pay the Claimant the minimum amount (two weeks pay) of **£833.60** under section 38(3) Employment Act 2002.
9. The total amount to be paid to the Claimant is **£1,458.60**.

Employment Judge **Sweeney**

Date: 5 March 2024

Note

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.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>