



EMPLOYMENT TRIBUNALS

Claimants: (1) Mrs Agnieszka Kostecka
(2) Mr Grzegorz Kostecki

Respondents: Orion To Go Ltd

Heard at: Leeds **On:** 03 January 2020

Before: Employment Judge R S Drake

Representation:

Claimant: Mr M Uminski (Consultant)
Respondent: No Attendance/No Response Lodged

JUDGMENT

1. The First Claimant has established that she is entitled to £1,143.36 unpaid wages and notice pay of £470.00 and therefore she is awarded and shall be paid by the Respondents the total sum of £1,613.36
2. The Second Claimant has established that he is entitled to £3,431.73 unpaid wages and notice pay of £263.00 and therefore he is awarded and shall be paid by the Respondents the total sum of £3,694.73

REASONS

1. Via an official interpreter (Mr Pawel Giers - to whom the Tribunal expresses gratitude for his involvement) the Claimants gave evidence of their pay during employment and of having been given but not being required or expected to work notice. The Respondent had not responded to the Claims by filing an ET3 in time and nor did they attend today's hearing so were taken to have not contested the claims. The Claimant's version of events and of the calculations of the sums due to them was preferred. I took account of their written representations, their sworn oral testimony and explanation of their respective cases by their representative.

2 The first Claimant has established she is entitled to accrued pay not fully discharged (and thus unlawfully withheld contrary to Section 13 of the Employment Rights Act 1996 (“ERA”)) up to the date she was made aware that she was on notice i.e. 12 September 2019 after taking account of a part payment of £750.00 the shortfall between her entitlement and the part payment is proved to be £1,143.36.

3 I also find that she had no written contract but that under Section 86 ERA, she was entitled to two weeks’ notice, her employment having commenced on 1 July 2017. Thus, she is entitled to two weeks net pay calculated and proved in the sum of £470.00 her average weekly take home pay being £235.00 as evidenced by her payslips.

4 The second Claimant has established he is entitled to accrued pay not fully discharged (and thus unlawfully withheld contrary to Section 13 of the Employment Rights Act 1996 (“ERA”)) upto the date he was made aware that he was on notice i.e. 12 September 2019 shortfall being proved to be £3,431.73.

5 I also find that he had no written contract but that under Section 86 ERA, she was entitled to one week’s notice, his employment having commenced on 1 October 2017. Thus, he is entitled to one week’s net pay calculated and proved in the sum of £263.00 being his average weekly take home pay as evidenced by his payslips.

6 Thus the first Claimant is entitled to be paid by the Respondent the following: -

Item	£
Unpaid wages	1,143.36
Notice pay	<u>470.00</u>
Total	<u>1,613.36</u>

I award Judgment and order that the Respondent shall pay to the Claimant the sum of **£1,613.36**

8 Thus the second Claimant is entitled to be paid by the Respondent the following: -

Item	£
Unpaid wages	3,431.73
Notice pay	263.00

Total **3,694.73**

I award Judgment and order that the Respondent shall pay to the Claimant the sum of **£3,694.63**

Employment Judge RS Drake

Date 5 January 2020

JUDGMENT SENT TO THE PARTIES ON

FOR THE TRIBUNAL OFFICE

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.