



EMPLOYMENT TRIBUNALS

Claimants: (1) Mr D Krasnevskyy
(2) Mr J Sekowski
(3) Mr V Ungureanu
(4) Mr N Guojah

Respondents: (1) Signs and Screens Limited
(2) Stackd Media Limited

Heard at: Reading **On: 2 January 2020**

Before: Employment Judge Gumbiti-Zimuto

Appearances

For the Claimants: Mr Krasnevskyy (In person)
Mr Sekowski (In person)
Mr Ungureanu (In person)
Mr Guojah (Not attending and not represented)

For the Respondents: Mr P Chase (Accountant for the first respondent)
The second respondent not attending and not represented

JUDGMENT

1. The first claimant, Mr Dmytro Krasnevskyy, was dismissed by reason of redundancy and is entitled to a redundancy payment in the sum of £960(2 weeks @ £480.00).
2. The first claimant's claim for damages for breach of contract (notice pay) succeeds. The first respondent, Signs and Screens Limited and or the second respondent, Stackd Media Limited is ordered to pay to the first claimant £480.00(1 week).
3. The first respondent and or the second respondent has made an unauthorised deduction from the first claimant's wages. The respondent is ordered to pay to the first claimant £384.00. This is the gross amount. If the respondent pays the tax and national insurance due to HMRC, payment of the net amount will meet the judgment debt.

4. The second claimant, Mr Janusz Sekowski, was dismissed by reason of redundancy and is entitled to a redundancy payment in the sum of £1524.00(3 weeks @ £520.00).
5. The second claimant's claim for damages for breach of contract (notice pay) succeeds. The first respondent, Signs and Screens Limited and or the second respondent, Stackd Media Limited, is ordered to pay to the second claimant £520.00(1 week).
6. The first respondent and or the second respondent has made an unauthorised deduction from the second claimant's wages. The respondent is ordered to pay to the second claimant £494.00. This is the gross amount. If the respondent pays the tax and national insurance due to HMRC, payment of the net amount will meet the judgment debt.
7. The third claimant, Mr Valentin Ungureanu, was dismissed by reason of redundancy and is entitled to a redundancy payment in the sum of £960(2 weeks @ £480.00).
8. The third claimant's claim for damages for breach of contract (notice pay) succeeds. The first respondent, Signs and Screens Limited and or the second respondent, Stackd Media Limited is ordered to pay to the third claimant £480.00(1 week).
9. The first respondent and or the second respondent has made an unauthorised deduction from the third claimant's wages. The respondent is ordered to pay to the third claimant £480.00. This is the gross amount. If the respondent pays the tax and national insurance due to HMRC, payment of the net amount will meet the judgment debt.
10. The claims for redundancy payment, unpaid wages and notice pay brought by the fourth claimant, Mr Ned Guojah are dismissed.

REASONS

1. The claimants brought complaints claiming redundancy payments, unpaid wages and notice pay. The first respondent denied the complaints and the second respondent, purportedly, did not participate in the proceedings.
2. It was agreed that the first, second and third claimants (hereinafter referred to as 'the claimants' or the 'the successful claimants') had sufficient qualifying employment to recover redundancy payments in the following amounts: Mr Krasnevskyy £960.00, Mr Sekowski £1524.00 and Mr Ungureanu £960.00. The issue between the first respondent and the claimants was whether they had lost the right to recover a redundancy payment because they had refused an offer of suitable alternative employment.

3. The complaints made by Mr Guojah are dismissed because he has failed to comply with the employment tribunal's order sent to the parties on the 29 October 2019 and failed to produce any evidence to show that he was entitled to any of the sums he claimed.
4. The relevant basic facts in respect of all the successful claimants are the same. They were each informed in November 2018 that the first respondent was going to close the factory at which they worked and cease trading on the 21 December 2018. They were all informed in the period between 30 November 2018 and 21 December 2018 that the first respondent was willing to seek alternative employment for each of them. They claim that they all expressed an interest in continuing employment with the respondent. In the case of Mr Krasnevskyy there is a paper trail that supports this in the form of email correspondence with management of the first respondent.
5. No offer of alternative employment was made to the claimants before the 21 December 2018. The claimants' employment with the respondent in the factory at which they were employed came to an end on the 21 December 2018 when the factory closed and the first respondent ceased trading.
6. Prior to the 21 December 2018 there had been discussion about the possibility of employment with a new entity to be created by a management buyout and to be known as Stackd Media Limited (the second respondent). In fact, the second respondent as an independent legal entity distinct from the first respondent never came into existence. What happened is that on the 27 December 2018 Signs and Screens Limited changed its name to Stackd Media Limited. For the purposes of this judgment the legal entity that is Signs and Screens Limited (the first respondent) and Stackd Media Limited (the second respondent) are one and the same. While in these proceedings, matters have been presented as though there were distinct entities, they are not distinct and were at relevant times the same legal entity.
7. On the 7 January 2019 for the period of 7 days the claimants were all employed by the respondent now styled Stackd Media Limited. The claimants were informed that they were to have terms of employment equivalent to their previous roles, that their employment would be subject to a probation period of two months and that their employment could be terminated on one week notice from either side. On 14 January 2019 the respondent closed down the factory for the second time and dismissed the claimants. The claimants were not paid any notice pay. The claimants were not paid for the work they did in that week.
8. The claimants are entitled to have been paid for work done the following amounts: Mr Krasnevskyy £384.00, Mr Sekowski £494.00 and Mr Ungureanu £480.00. They were each entitled to notice pay in the following amounts £480 (the gross figure) in the case of Mr Krasnevskyy

and Mr Ungureanu, and £520 (the gross figure) in the case of Mr Sekwoski.

Redundancy payments

9. Section 138(1) of the Employment Rights Act 1996 (setting out circumstances where an employee is to be regarded as not dismissed) applies where an employee's contract of employment is renewed, or he is re-engaged under a new contract of employment in pursuance of an offer (whether in writing or not) made before the end of his employment under the previous contract. On the facts of this case there was no offer made before the end of the employment. The offer was made after the employment ended. Before the employment ended there had been discussions but no offer.
10. It was contended on behalf of the respondent that the claimants were not entitled to a redundancy payment because they had been offered employment that was suitable and had refused.
11. Where an offer (whether in writing or not) is made to an employee before the end of his employment to renew his contract of employment, or to re-engage him under a new contract of employment, with renewal or re-engagement to take effect either immediately on, or after an interval of not more than four weeks after, the end of his employment, the employee is not entitled to a redundancy payment if he unreasonably refuses the offer where section 141(3) is satisfied. The claimants were not offered employment before the end of the employment.
12. The only basis on which the respondent contend that the claimants were not entitled to a redundancy payment have not been established by the respondent. The claimant's claims for a redundancy payment succeed.

Unpaid wages and notice pay

13. The only reason on which the first respondent has sought to rely on to deny the claimant's claims in respect of unpaid wages and notice pay is that they are the debts of Stackd Media Limited, the second respondent, and not Signs and Screens Limited, the first respondent. There is no contest to the contention that the claimants were not paid for a week of work or paid notice pay in the amounts they claim.
14. For the reasons set out above there is no distinction between the first and second respondent. The claimants are entitled to succeed in this claim against the first respondent and the second respondent as they are in this case one and the same.

Employment Judge Gumbiti-Zimuto

Date: 2 January 2020

Sent to the parties on:

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For the Tribunals 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:

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