



EMPLOYMENT TRIBUNALS

Claimant: Mrs R Bruce

Respondent: Crown and Country Leisure Limited

Heard at: Newcastle Employment Tribunal (remotely by CVP)

On: 01 August 2022

Before: Employment Judge Sweeney

Appearances: For the Claimant: in person
For the Respondent: no attendance

JUDGMENT

The judgment of the Tribunal is that:

1. The claim for a statutory redundancy payment under section 163 Employment Rights Act 1996 is well founded and succeeds.
2. Although the events referred to in section 164(1) Employment Rights Act 1996 had not occurred within the period of six months of the relevant date, it is just and equitable that the Claimant should receive a redundancy payment.
3. The Respondent is ordered to pay the Claimant:
 - **£5,920.87** by way of statutory redundancy payment
4. The following claims are dismissed upon withdrawal:
 - a. Unfair dismissal,
 - b. Notice pay,
 - c. Unauthorised deduction of wages,
 - d. Payment for accrued, untaken holiday pay

REASONS

Background

5. The Claimant presented a Claim Form on 24 January 2021 in which she identified the following complaints:
 - a. Unfair dismissal,
 - b. Failure to pay statutory redundancy payment
 - c. Notice pay,
 - d. Unauthorised deduction of wages,
 - e. Payment for accrued, untaken holiday pay
6. The proceedings were served on the Respondent but no response was returned.
7. At today's hearing, Mrs Bruce attended to represent herself. Recognising that certain claims were out of time, she withdrew the claims for unfair dismissal, notice pay, unauthorised deductions (arrears of pay) and holiday pay and I explained that I would dismiss those claims on withdrawal.
8. That left her claim for redundancy pay. Mrs Bruce had previously, when the Tribunal was considering issuing a judgment under rule 21 of the Employment Tribunal Rules of Procedure. She had provided some bank statements to verify the amount of pay paid to her by her former employ. She had not prepared any witnesses statement. Therefore, I proceeded to hear evidence from her, which consisted of her answering a number of questions from me.

Facts

9. I was able to make the following findings of fact.
10. Mrs Bruce worked as a cleaner at The Chilton Country pub. She started there on 10 February 2006 and at that time worked for Roseberry Club Leisure Ltd. She loved her job. On 11 February 2020, new owners took over the running of the pub/hotel. There was no change to the operation. The pub operated as before and Mrs Bruce and others continued to work as before. It was a seamless change. Her employer became Crown and Country Leisure Ltd, one of the directors of which was Martin Ellis.
11. Unfortunately, the pandemic changed everything shortly after the new owners took over. Mrs Bruce was placed on furlough in March 2020. She returned to work on 22 July 2020 but was again furloughed in November 2020.
12. On 25 June 2021, she received an email from Mr Ellis to say that he was insolvent and that she was being made redundant. The pub closed and remains closed.
13. Mrs Bruce's average gross weekly pay in the 12 weeks leading up to that date was £263.15.

14. Mrs Bruce tried to claim her redundancy pay but was unable to as she required a CN number – which is a reference number obtainable from an Insolvency Practitioner, and which is required for claiming a redundancy payment.
15. She was unable, therefore, to process her claim. She contacted Mr Ellis who said he would ensure she got the reference number. She did not hear back. She made a number of further attempts to contact Mr Ellis. However, he did not reply. Mrs Bruce did not understand the process, and having been told that she would receive a number, waited. Eventually, as nothing came through, on 20 January 2022, she began the process of early conciliation by contacting ACAS. A certificate was issued on 24 January 2022 and on that same day she presented a form ET1 to the Tribunal.

Conclusions

16. I am satisfied that when the Claimant was dismissed on 25 June 2021, there was a redundancy situation. The place of work at which she was employed closed. I am satisfied that on 11 February 2020, there was a 'relevant transfer' under the Transfer of Employment (Protection of Employment) Regulations 2006 ('TUPE') to Crown and Country Leisure Limited and that at the date of termination of her employment, on 25 June 2021, she had been continuously employed for 15 complete years, her employment having transferred to the Respondent under TUPE. I am also satisfied that the reason for her dismissal was that she was redundant, having regard to section 139 Employment Rights Act 1996.
17. I had to consider whether the claim for redundancy payment was in time. None of the things referred to under section 164(1) had been done within the period of 6 months of the date of dismissal. Therefore, I had to consider whether to exercise my discretion under section 164(2).
18. I considered it just and equitable that the Claimant should receive a redundancy payment. In reaching that conclusion I have had regard to the following:
 - a. Mrs Bruce made genuine attempts to understand the process,
 - b. Mrs Bruce did not understand how she was to go about securing payment;
 - c. Mrs Bruce genuinely waited in the expectation that she would get a CN number;
 - d. The place of business had closed and Mrs Bruce was genuinely due a redundancy payment;
19. In those circumstances, and there being no response from the employer to challenge any of the above, I considered it just and equitable that she should receive a redundancy payment.
20. I then set about calculating the redundancy payment.

Statutory redundancy

21. At the effective date of termination, Mrs Bruce was aged 65. She had been continuously employed for 15 complete years. Her statutory redundancy entitlement is calculated thus: $\pounds 263.15 \times 1.5 \times 15 = \pounds 5,920.87$.

Employment Judge Sweeney

Date: 1 August 2022