

# THE INDUSTRIAL TRIBUNALS

CASE REF: 21455/20

**CLAIMANT:** Jennifer McSorley

**RESPONDENTS:** 1. The Parlour Ltd  
2. The Parlour Camlough Ltd

## JUDGMENT

The unanimous judgment of the tribunal is that the claimant is entitled to payment of holiday pay in the sum of £470.00 gross.

### CONSTITUTION OF TRIBUNAL

**Employment Judge:** Employment Judge Bell

**Members:** Mr A Kerr  
Mr T Wells

### APPEARANCES:

**The claimant did not attend and was not represented.**

**The respondents did not attend and were not represented.**

1. The tribunal under Rule 41 of The Industrial Tribunal and Fair Employment Tribunal Rules of Procedure 2020 proceeded with the hearing on papers only.
2. The claimant in her claim complained she was owed holiday pay for untaken holidays accrued due up to termination of her employment.
3. No response was presented.
4. The Labour Relations Agency early conciliation certificate issued on 22 July 2020 named the prospective respondent as 'The Parlour Camlough Ltd'.
5. At Preliminary Hearing on 5 July 2021 (Order issued 6 August 2021), 'The Parlour Camlough Ltd', was added as a party to the proceedings it appearing that it may be the respondent's correct title. No application has been presented to set aside that order.

6. The claimant submitted papers in support of her claim prior to the substantive hearing and which together with the claimant's claim form have been taken into consideration.
7. By email dated 6 August 2021 the claimant advised the tribunal of her unavailability on 9 August 2021 due to work. The tribunal confirmed on 9 August 2021 that the hearing would not be postponed.

## **ISSUE**

8. Is the claimant entitled to unpaid holiday pay?

## **RELEVANT LAW**

9. The Working Time Regulations (Northern Ireland) 2016 provide for minimum statutory paid holiday entitlement per leave year for workers and for payment to be made for untaken leave accrued due up to termination of employment.
10. Article 45 of The Employment Rights (Northern Ireland) Order 1996 provides a worker the right not to suffer an unauthorised deduction from wages and for a deficiency in the total amount of wages paid against that properly payable to be treated as a deduction.

## **FINDINGS OF FACT AND CONCLUSIONS**

11. The claimant worked continuously, 5 days per week, in a café known as *The Parlour*, for one or other of the above-named respondents, from 15 June 2019 until she was laid off on 15 March 2020 due to Covid. The claimant was informed in May 2020 that the café would not be re-opening.
12. In December 2019 the claimant took 4 days' paid holiday leave.
13. On termination of her employment the claimant had remaining approximately 16.9 days untaken leave accrued due to her.
14. The claimant's average gross weekly pay was approximately £250.00.
15. On 19 June 2020 payments of £145.00 and £229.61 were received into the claimant's bank account with transaction details, 'The Parlour', and, 'The Parlour Holiday', respectively, and have been treated by claimant as payment toward outstanding holiday pay.
16. The claimant's claim was not contested and tribunal is satisfied on balance that the claimant has suffered an unlawful deduction in relation to untaken paid holiday leave accrued due to her up to termination of her employment and is

entitled to a balance payment of £470.00 gross in respect thereof. In the

absence of evidence as to the correct title of the respondent, the first and second named respondents are to be jointly and severally liable.

17. This is a relevant decision for the purposes of the Industrial Tribunals (Interest) Order (Northern Ireland) 1990.

Employment Judge: *M. Bell*

Date and place of hearing: 9 August 2021, Belfast.

This judgment was entered in the register and issued to the parties on: