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EMPLOYMENT TRIBUNALS

Claimants: 1. Miss R Blott
2. Miss N A Cronin

Respondent: Relate Health Care Ltd

Heard at: East London Hearing Centre **On: 2 October 2017**

Before: Employment Judge Prichard (sitting alone)

Representation

Claimants: Miss Blott (first claimant)

Respondent: No appearance or representation

JUDGMENT

The judgment of the Employment Tribunal is that the respondent is ordered to pay the claimants as follows:-

(1)	Ms R Blott	£540.00
(2)	Ms N Cronin	£5,426.16

REASONS

1 These claims have been extraordinarily well and neatly presented, principally by Miss Blott. She was employed for less than a month doing administrative work for the respondent.

2 The respondent is a specialist care-related employment agency run by Ms Mary Hassan, known as Lisa Hassan. She is the sole director and shareholder of the company. It was incorporated in August 2015 according to Companies House. I am informed that the company's confirmation statement was filed late and the accounts due on 20 August 2017 are still outstanding, but the company is still recorded as being active. It is a small business which has up to 10 agency workers only 5 of whom were regular. They were friends and had less formal relationships.

3 The one placement I have heard a lot about is Churchfields Care Home in Witham. It is a care home with users of all genders and all ages - 18 up to 75 approximately.

4 Ms Blott is aged 28, Ms Cronin is 19. She recently left college and has been trying to find work in care. She did some online training before starting work with Relate. It cost her £50, for which she obtained certificates in certain competencies - manual handling, food hygiene, fire safety, and infection control. She worked day shifts from November 2016 and was paid every 2 weeks. Her rate of pay was initially £7.20 and it rose to £8.00 during the time she was there. The rise was effective on 1 March 2017.

5 Ms Blott is a teacher by qualification was in between teaching jobs in March. She was interested in finding some administrative work and a vacancy for an administrator arose with Relate Health Care. She volunteered to give a free trial for a week but then was taken on. Her claim for arrears of pay is based on conceding that that trial was free - something like an internship. It is a generous concession seeing that she had anyway only claimed at the rate of the national minimum wage (in default of Ms Hassan committing herself to paying any particular hourly rate). She worked for just less than a month from Monday 6 to Friday 24 March, 3 weeks' work for which she is entitled to be paid the second and third week. She did a total of 75 hours work. At the national minimum wage (£7.20 ph) that comes to precisely £540. It is not sure for certain how much, if any, tax she would have paid on this amount, especially given that she was subsequently unemployed. Any tax would probably have been refunded anyway. She received JSA for a spell after that. The two of them only just managed to retain their rented home in Colchester.

6 Ms Cronin's claim is more complicated and she was there for longer. I have been shown detailed calculations which give a total of £5,426.16 arrears. I accept these calculations. It was extraordinarily irritating to Ms Cronin that, for no reason that was ever explained, she was always paid less than what was agreed between her and Ms Hassan. Again these figures are gross because it is unlikely, given her subsequent history that if she had had to pay any tax it would have been refunded by now because she has been unemployed and is in a weak position on the labour market at present, having no reference from Ms Hassan, and being left in bad circumstances.

7 Ms Cronin stopped work at the same time as Miss Blott. The two agreed that enough was enough. Ms Blott received no pay at all, ever. She subsequently asked for her pay. Nothing was forthcoming at all. Ms Hassan did not engage with the ACAS conciliator in the compulsory early conciliation. Nor did Ms Hassan's ex-husband, Mr Ancel Rowe.

8 From everything I have heard this was an atrocious employer. Ms Hassan constantly blamed others including the payroll company - AR Payroll & Consultancy Services (in fact Ancel Rowe's company). The account handler may have been an individual called Yunus. Between they all blamed somebody else for the state the company was in. Employed to do the company's administration, Ms Blott in fact found herself doing many domestic chores for Ms Hassan like writing her daughter's school application, for instance, also babysitting for Ms Hasan's son aged 10 / 11, who, for no obviously good reason, was out of school.

9 The claimants' have exhibited pages of SMS texts between them and Ms Hassan. I have seen the pattern of procrastination and not replying to important and urgent requests for money, including over the Christmas period.

10 In these proceedings the respondent was given until 31 August to submit an ET3 response and, not surprisingly, failed to do so. To date the company is still showing as being active on the register of companies. I am satisfied all correspondence from the tribunal has been correctly addressed to the company's registered office, and that it is proper to hold today's hearing in the respondent's absence.

11 Ms Blott is claiming the national minimum wage because all her attempts to come to some formal agreement about pay for herself met with no success; Ms Hassan refused to talk about it or to commit herself to any form of contractual relationship after the claimant had the goodwill to do a week's free work as a volunteer helping the company out. Fortunately Ms Blott has found new employment since and managed to rescue their domestic finances, but they are hardly thriving now. There is very little money left over for essentials after rent and other unavoidable outgoings.

12 I have seen through the texts how the tone has varied considerably from the claimant's being cheery and upbeat at the start to being increasingly desperate and pleading towards the end. If the claims had been resisted it is hard to see how they could have been successfully resisted. They are clearly good claims, pitched very modestly. All the claimants want is the money they are owed.

13 I understand from Ms Blott, there could have been an eminently arguable whistle-blowing claim. Ms Blott clearly raised some serious irregularities with Ms Hassan. The company was operating without public liability insurance. The previous insurance policy having lapsed as far back as 22 September 2016. The claimant also saw clear proof that the company had knowingly employed individuals who were not entitled to work in the UK. She complained about these matters to Ms Hassan. There was another occasion where Ms Hassan charged an agency carer some £56 for a DBS certificate, then never carried out the DBS check, but all the while the carer was working under the impression that she had DBS so Churchfields would not have asked to see the DBS, taking it on trust that any respectable agency would not give them a carer who did not have current DBS.

Employment Judge Prichard

13 October 2017