



THE EMPLOYMENT TRIBUNALS

Claimant
Ms J Eagleton

Respondent
808 Leisure Ltd

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT NORTH SHIELDS
EMPLOYMENT JUDGE GARNON

ON 8 January 2020

JUDGMENT (Liability and Remedy) Employment Tribunals Rules of Procedure 2013 –Rule 21

1.The address of the respondent is amended to c/o Savants , 83 Victoria Street London, SW1H 0HW, to which this judgment will be sent

2.The claim for compensation for untaken annual leave is well founded. I order the respondent to pay to the claimant compensation of £872.68.

REASONS

1. The claim was served on 21 November 2019. A response was due by 19 December but none was received I am required by rule 21 of the Employment Tribunals Rules of Procedure 2013 to decide on the available material whether a determination can be made and , if so, obliged to issue a judgment which may determine liability only or liability and remedy.

2. The respondent entered creditors voluntary liquidation on 26 November and changed its registered office to the address of the liquidators on 27th. At the date of service, it was the address on which service was effected, so service is valid.

3. The law relating to compensation for untaken annual leave is in The Working Time Regulations 1998. Regulation 14 says:

(1) This regulation applies where -

(a) a worker's employment is terminated during the course of his leave year, and
(b) on the date on which the termination takes effect ("the termination date"), the proportion he has taken of the leave to which he is entitled in the leave year under regulation 13 and regulation 13A differs from the proportion of the leave year which has expired.

(2) Where the proportion of leave taken by the worker is less than the proportion of the leave year which has expired, his employer shall make him a payment in lieu of leave in

accordance with paragraph (3).

(3) The payment due under paragraph (2) shall be -

(a) such sum as may be provided for the purposes of this regulation in a relevant agreement, or

(b) where there are no provisions of a relevant agreement which apply, a sum equal to the amount that would be due to the worker under regulation 16 in respect of a period of leave determined according to the formula -

$$(A \times B) - C$$

where -

A is the period of leave to which the worker is entitled under regulation 13(1);

B is the proportion of the worker's leave year which expired before the termination date, and

C is the period of leave taken by the worker between the start of the leave year and the termination date.

4. The leave year in the absence of a relevant agreement (defined as being an agreement commences on the anniversary of the start date which was 1 November 2018 From that date to the date of termination on 12 September 2019 was 316 days of which she does not appear to have taken any paid leave . The claimant's weeks pay was £180. His annual entitlement to leave was 5.6 weeks. £180 x 5.6= £1008. That sum divided by 365 days and multiplied by 316 days = £872.68.

5. The claimant makes other complaints in her claim form but I have no jurisdiction to make awards in respect of them. As the respondent is insolvent she may be able to obtain the award from the Secretary of State under Part 12 of the Employment Rights Act 1996. Any hearing listed is cancelled.

TM Garnon Employment Judge
Date signed 8 January 2020