



EMPLOYMENT TRIBUNALS

Claimant: Mrs Hawke-Davies

Respondent: Mr Jovan Gajic

Heard at: Southampton (by video)

On: 9 November 2022

Before: Employment Judge Danvers

Representation

Claimant: In person

Respondent: Did not attend

JUDGMENT

1. The Respondent's name is amended to: 'Mr Jovan Gajic'.
2. The Claimant's claim for holiday pay succeeds.
3. The Claimant is awarded £216.43 in respect of the amount owing under Regulation 14 Working Time Regulations 1998 in lieu of paid holiday which was outstanding on termination of her employment.

This is calculated as follows:

- a. (A) Period of leave to which the Claimant was entitled under Regulation 13 and Regulation 13A of the Working Time Regulations 1998: 5.6 weeks.
- b. (B) The proportion of the Claimant's leave year which expired before the termination date: 0.438.
- c. (C) The period of leave taken by the Claimant between the start of the leave year and the termination date: 0.596 weeks.
- d. $(A \times B \text{ 2.453 weeks}) - (C \text{ 0.596 weeks}) = 1.857 \text{ weeks outstanding.}$
- e. A week's pay under s.221-224 Employment Rights Act 1996: £179.55. There were 20 complete weeks between dismissal and the

start of the Claimant's employment in which she received remuneration. In these weeks she worked 399 hours in total. The average number of weekly normal working hours was 19.95 (399 hours / 20 weeks). Her hourly rate of remuneration was £9. £9ph x 19.95 hours = week's pay of £179.55.

- f. Sub-total: £179.55 week's pay x 1.857 weeks outstanding = £333.42
 - g. Less £117 gross, paid by the Respondent on termination in respect of unpaid holiday.
 - h. Total: £216.42 (gross).
4. When the proceedings were begun, the Respondent was in breach of his duty to provide the Claimant with a written statement of particulars under s.1 Employment Rights Act 1996.
 5. The Claimant's compensation is increased under s.38 Employment Rights Act 1996 by two weeks' pay: £179.55 x 2 = £359.10
 6. The Respondent is to pay to the Claimant the total amount of **£575.52** less any necessary deductions for tax and national insurance.

Note: After the hearing had concluded, I realised that in my oral judgment I had made an accidental slip in respect of the calculations set out above. Namely, I had failed to multiply the week's pay by the number of weeks of holiday outstanding prior to deducting the £117 that was paid by the Respondent on termination. Under the provisions of Rule 69 Employment Tribunal Rules 2013, I hereby correct the mistake in the oral judgment given on 9 November 2022 by way of the insertion of 3(f) above and the consequential amendments to the figures.

Employment Judge Danvers

Date: 9 November 2022

Judgment sent to the parties: 18 November 2022

FOR THE TRIBUNAL OFFICE

Notes

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.

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