



EMPLOYMENT TRIBUNALS

Claimant: Miss S Penellum

Respondent: Mrs Mary Nicholls

Heard at: Bodmin

On: Monday 20 November
2017

Before: Employment Judge Matthews

Representation:

Claimant: In Person

Respondent: Mr M Keenan - Consultant

JUDGMENT

1. Miss Penellum was unfairly dismissed.
2. Miss Penellum does not seek a reinstatement or a re-engagement order.
3. Mrs Nicholls is ordered to pay to Miss Penellum unfair dismissal compensation totalling £3,300 comprising a basic award of £864 and a compensatory award of £2,436. The latter sum includes an amount equal to two weeks' pay under section 38 of the Employment Act 2002 as a consequence of the failure by Mrs Nicholls to comply with section 1 of the Employment Rights Act 1996 prior to the commencement of these proceedings.
4. The Recoupment Regulations do not apply.
5. Miss Penellum was wrongfully dismissed.
6. Miss Penellum's claim under regulation 30(1) of the Working Time Regulations 1998 that Mrs Nicholls has failed to pay her an amount due under regulation 14(2) (holiday pay) is well founded. Mrs Nicholls is ordered to pay Miss Penellum £183.20 in this respect. Any amount which Mrs Nicholls lawfully deducts from this

amount by way of income tax, national insurance contributions or otherwise shall be treated to that extent as in payment of the order in this paragraph 6. In the absence of evidence to substantiate the lawfulness and amount of such a deduction, the gross amount specified in this paragraph 6 shall be due to Miss Penellum.

7. Miss Penellum's claim for wages is dismissed by consent.

Schedule of calculations

1. Miss Penellum had two complete years' service aged 41 or more. In the absence of pay slips the evidence is that Miss Penellum's weekly gross pay was £288. Her basic award is calculated as follows:

$$1.5 \times 2 \times £288 = £864$$

2. £300 is awarded for loss of statutory rights.
3. Six weeks post dismissal loss of earnings is awarded (to include notice pay). Again, in the absence of payslips, Miss Penellum's weekly net pay was £260. The calculation is:

$$6 \times £260 = £1,560$$

4. Miss Penellum is owed 22.9 hours holiday pay at the rate of £8 an hour. The calculation is:

$$22.9 \times £8 = £183.20$$

5. Two weeks' pay is awarded in respect of the failure to provide a written statement of the particulars of Miss Penellum's employment. The calculation is:

$$2 \times £288 = £576$$

Employment Judge Matthews

JUDGMENT SENT TO THE PARTIES ON

29 NOVEMBER 2017

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FOR THE TRIBUNAL OFFICE