



EMPLOYMENT TRIBUNALS

Claimant Miss S Mole

Respondent Mrs Karen Pimblett and Mr Steven Pimblett
(formerly trading as the Russell Inn).

Heard at: Exeter

On: 19 February 2018

Before:
Employment Judge Goraj

Representation

Claimant: in person (supported by her mother)

The Respondents: did not attend

JUDGMENT having been sent to the parties on [] and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided: -

BACKGROUND

1. By a claim form which was presented to the Tribunals on 21 September 2017 the Claimant claimed for alleged outstanding wages. The Claimant's claim is in respect of outstanding wages between 14 August 2017 and 21 August 2017 in the total sum (prior to the adjustment referred to below) of £359.55.
2. The Claimant's ACAS certificate records that ACAS received notification of the Claimant's claim on 7 September 2018 and that the EC Certificate was issued (by email) on 19 September 2017.

3. The claim is disputed by the Respondents including on the grounds that the Claimant did not work all the hours claimed. On or around 12 February 2018 the Claimant received from the Respondents, by bank transfer, the sum of £206.90 which was accepted by the Claimant in part payment only of the alleged outstanding monies.

The Hearing

4. The Respondents did not attend the Hearing and no explanation was given to the Tribunal for their non-attendance. The Tribunal has however taken into the account the documentation submitted by the Respondents together with the statements of Mrs K Pimblett (Respondent) and her son and former bar manger Mr J Pimblett albeit that the Tribunal has placed limited weight on such statements as they have not been tested in cross examination/ by the Tribunal.
5. The Tribunal has also had regard to the written statement/ oral evidence and documentation provided by the Claimant. The Tribunal considered the Claimant to be a credible witness.

FINDINGS OF FACT

6. Having weighed the available evidence the Tribunal made the findings of fact set out below.
7. The Claimant was employed by the Respondents as a bar tender from 22 June 2017 to 22 August 2017 when her employment was summarily terminated by the Respondents for alleged gross misconduct.
8. The Claimant was not issued by the Respondents with any particulars of employment as required pursuant to section 1 of the Employment Act 1996 ("the Act").
9. The Claimant was paid £7.05 gross per hour. The Claimant's normal gross weekly pay was £324.30 per week.
10. The Claimant worked the following hours between 14 August and 21 August 2017 for which she has received part payment of £206.90.

- (1) 14 August 2017 – 11 hours at £7.05 per hour = £77.55.
- (2) 16 August 2017- 2 hours at £7.05 per hour = £14.10.
- (3) 16 August 2017 (pm) – 5 hours at £7.05 per hour = £35.25.
- (4) 17 August 2017 – 11 hours at £7.05 per hour = £77.55.
- (5) 18 August 2017 – 6 hours at £7.05 per hour =£42.30.
- (6) 19 August 2017 – 2.5 hours at £7.05 per hour = £17.63.
- (7) 19 August 2017 (pm) -4.5 hours at £7.05 per hour= £31.73.
- (8) 20 August 2017 -1 hour at £7.05 per hour = £7.05.
- (9) 20 August 2017 (pm) -2 hours at £7.05 = £14.10.
- (10) 21 August 2017- 6 hours at £7.05 = £42.30.

(11) Total – 51 hours at £7.05 per hour = **£359.55.**

11. The Claimant received the sum of £206.90 in part payment of the above on or around 12 February 2018.

THE LAW AND CONCLUSIONS OF THE TRIBUNAL

12. The Tribunal has had regard in particular to sections 1, 13 and 23 of the Act and to section 38 of the Employment Act 2002.

13. The Tribunal is satisfied have regard to the facts and relevant law that the Respondents have made unlawful deductions from the Claimant’s pay as identified above between 14 August 2017 and 21 August 2017 in the sum of £152.65 (£359. 55 - £206.90) and the Respondents are therefore ordered to pay such sum to the Claimant.

14. The Tribunal is further satisfied that the Respondents have failed to issue the Claimant with a statement of particulars of employment as required by section 1 of the Act. The Respondents have not provided any explanation for such failure and the Tribunal is therefore satisfied that it is appropriate to award the Claimant a further sum of 2 weeks’ gross pay of £ 648.60 (2 x £324.30 gross) in respect of such failure pursuant to section 38 of the Employment Act 2002.

15. The Claimant is therefore awarded and the Respondents are ordered to pay to her the total sum of £801.25 gross (£152.65 +£648.60).

Employment Judge Goraj

Date: 14 June 2018

REASONS SENT TO THE PARTIES ON
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FOR THE OFFICE OF THE TRIBUNALS

