

Case Number: 3201796/2017
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EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

and

Respondent

**Ms C Beckford (1)
Ms K Primus (2)
Ms F Clarke (3)
Ms F Dansoh (4)
Ms M Galloway (5)**

Premier Carewaiting Limited

Held at: Watford

On: 6 July 2018

Before: Employment Judge Smail

Appearances

Claimant: Ms M Stanley (Counsel)
Respondent: Ms P Hall (Consultant)

Upon converting the hearing to be held in public, the Employment Judge made by consent this -

PRELIMINARY HEARING JUDGMENT

1. The Second to Fifth Claimants' claims of breach of section 10 of the National Minimum Wage Act 1998 are well-founded.
2. The Respondent must pay the Second to Fifth Claimants' £626.40 each within 14 days under section 11(1) of the 1998 Act.
3. The First Claimant's claim will be heard on 9 November 2018 @ 2pm at the Employment Tribunals, Radius House, 51 Clarendon Road, Watford WD17 1HP.

ORDERS

Made pursuant to the Employment Tribunal Rules 2013

4. By no later than 27 July 2018, the First Claimant shall serve a preliminary witness statement exhibiting any relevant documents purporting to show that she was a worker within the meaning of s.54(3) of the National Minimum Wage Act 1998.
5. By no later than 10 August 2018 the Respondent shall confirm to the Tribunal and to the First Claimant whether the claim remains contested or not.
6. By no later than 24 August 2018 the parties shall complete any further disclosure.
7. The bundle shall be completed by 31 August 2018.
8. Witness statements shall be exchanged by 28 September 2018.

The Issues

1. Was C1 at any time a worker of the Respondent within the meaning of section 54(3) of the National Minimum Wage Act 1998 (“NMWA”)?
2. Did C1 believe on reasonable grounds that she was or might have been or had been or possibly had been remunerated for any pay reference period at a rate which is less than the national minimum wage?
3. The parties agree that on 20 July 2017 C1 submitted a production notice requesting the production of “relevant records” in accordance with section 10(5) of the NMWA.
4. The parties agree that the R failed to produce some or all of the relevant records. C1 says she has the right to require R to produce these records in accordance with section 10(1)(a) of the NMWA and that she has a cause of action under section 11(1)(a) of the NMWA.

5. The parties agree that R failed to allow C1 to inspect and examine these records and copy any part of them. C1 says she has the right to inspect and examine these records and copy any part of them in accordance with section 10(1)(b) of the NMWA and that she has a cause of action under section 11(1)(b).

6. Is C1 entitled to a declaration and compensation under section 11(2) of the NMWA?

CONSEQUENCES OF NON-COMPLIANCE

1. Failure to comply with an order for disclosure may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under s.7(4) of the Employment Tribunals Act 1996.
2. The tribunal may also make a further order (an “unless order”) providing that unless it is complied with, the claim or, as the case may be, the response shall be struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice or hold a preliminary hearing or a hearing.
3. An order may be varied or revoked upon application by a person affected by the order or by a judge on his/her own initiative.

Employment Judge Smail

South East Region

24/7/2018

Judgment sent to the parties on

24/7/2018_____