



EMPLOYMENT TRIBUNALS

Claimant: Mrs S Walker

Respondent: First Class Homecare Limited (In Liquidation)

Heard at: London South **On:** 3 August 2018

Before: Employment Judge Fowell

Representation:

Claimant: No appearance

Respondent: No appearance

JUDGMENT

The claim for unlawful deduction from wages in respect of accrued but untaken annual holiday is upheld.

The claimant is awarded compensation of £1,067

REASONS

1. By a claim form dated 30 May 2018 the claimant presented a complaint of unlawful deduction from wages in respect of accrued but untaken annual holiday. There was no response to the claim. Post from the Tribunal to the respondent was returned marked “gone away” and a search on the Companies House website revealed that the company was in liquidation.
2. In the circumstances the claimant indicated that she did not wish to attend the hearing, and there was no appearance from the respondent.
3. By rule 47 of the Employment Tribunal Rules of Procedure 2013 the Tribunal may proceed in the absence of either party. In the circumstances the absence of the claimant is understandable.
4. The claim form specified that she was employed on a zero-hours contract from 20 October 2017 to 29 March 2018 and that when her contract of

employment came to an end she had worked a total of 812 hours but received no holiday pay. It also stated that the company had promised to pay this sum but had not.

5. The sum claimed was £1067, said to have been arrived at using an internet calculator and the help of ACAS.
6. Details of her earnings are sparse, but she claims to have worked for 40 hours per week earning £551 gross per week, which is an hourly rate of £13.78. On that basis, her earnings for 812 hours would have been £11,189.36. £1,067 represents 9.5% of this total.
7. An employee working full time, five days a week for 52 weeks per year, would work 260 days. After taking 28 days holiday per year, the statutory minimum, including bank holidays, that number reduces to 228. Hence, for every 228 days worked, 28 days holiday is accrued. So for every day worked, 12.28% of a day's holiday is accrued.
8. On that basis the amount claimed is no more, indeed somewhat under, the amount of holiday pay to be expected for working 812 hours at that rate of pay. It may be that the rate of pay is less than the weekly figures indicate, but the same calculation can be performed in reverse. 812 hours at 12.28% would give rise to 99.7 hours of holiday at the statutory rate of holiday. £1,067 would therefore represent 99.7 hours of holiday pay an hourly rate of £10.70.
9. That rate of pay seems reasonable for a carer. The figures claimed therefore appear reasonable and are uncontested. Accordingly, judgment is given for the sum claimed of £1,067.
10. Although the respondent is in liquidation, such outstanding payments from an insolvent employer can be claimed from the National Insurance Fund via the Insolvency Service.

Employment Judge Fowell

Date 03 August 2018