



EMPLOYMENT TRIBUNALS

Claimant: Mrs D Murray

Respondent: Harbourside Marina Limited

JUDGMENT

The Tribunal has of its own volition reconsidered the judgment sent to the parties on 21 February 2018 and reasons sent to the parties on 28 February 2018.

Representations were sought from the parties as to the proposed reconsideration by 14 June 2018 in a letter to the parties dated 31 May 2018. No responses were received by the Tribunal.

The judgment and reasons will be varied in the terms set out below, in accordance with Rules 70-73 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, Schedule 1.

REASONS

1. The judgment sent to the parties on 21 February 2018 and reasons sent to the parties on 28 February 2018 are varied as follows:

The judgement of 21 February 2018, paragraph 3: "3. *The claimant is also entitled to recover £1772.97 for unpaid wages for hours worked where the claimant's hourly rate of pay was less than the National Minimum Wage.*"

The reasons of 26 February 2018, paragraph 53 onwards: "53. *Taking into account that the National Minimum Wage was lower in January to March 2017 at £7.20 and was £7.50 in April and May, there is a shortfall per hour in the National Minimum Wage that Mrs Murray should have been paid, so a shortfall of £1.46 per hour for the period of 13 weeks from January to March and a shortfall of £1.70 per hour for the nine week period in April and May.*

54. *The shortfall of £1.70 per hour in April and May is calculated in accordance with s17(2) of the National Minimum Wage Act 1998, on the basis of the difference between the relevant remuneration received by Mrs Murray for the pay reference period of £5.80 per hour and the National Minimum Wage payable at*

the time of £7.50 per hour for 9 weeks for a working week (the "pay reference period") of 51.72 hours. This leads to an overall shortfall of £791.32 for this nine-week period.

55. The shortfall of £1.46 per hour in January to March is calculated in accordance with s17(4) of the National Minimum Wage Act 1998, on the basis of the formula $(A / R1) \times R2$, where:

- A is £1.40, being the difference between the pay received by Mrs Murray of £5.80 per hour and the National Minimum Wage payable at the time of £7.20,*
- R1 is the National Minimum wage payable at the time of the underpayment, which was £7.20 per hour, and*
- R2 is the National Minimum Wage payable at the date of calculation of £7.50 per hour.*
- This shortfall of £1.46 per hour is calculated for 13 weeks for a working week (the "pay reference period") of 51.72 hours and leads to a shortfall of £981.65 for this period.*

56. The claimant is therefore entitled to be paid £1772.97 for hours worked where the rate of pay was less than the National Minimum Wage."

2. The judgment and reasons are varied in this regard because the original judgment incorrectly applied the provisions of s17 of the National Minimum Wage Act 1998.

Employment Judge Barker

Date 21 June 2018
JUDGMENT SENT TO THE PARTIES ON

.30 July 2018

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FOR THE TRIBUNAL OFFICE