



EMPLOYMENT TRIBUNALS

Claimants: 1. Mr D Kocur
2. Ms C Roberts

Respondents: 1. Angard Staffing Solutions Limited
2. Royal Mail Group Limited

HELD AT: Leeds **ON:** 12 to 15 November
2018

BEFORE: Employment Judge JM Wade
Mrs J Maughan
Mrs L Hill

REPRESENTATION:

Claimants: Mr D Kocur, first claimant
Respondents: Mr J Boyd (of counsel)

JUDGMENT

The unanimous judgment of the Tribunal concerning the claimants' alleged infringements of rights conferred by Regulations 5 and 13 of the Agency Workers Regulations 2010 ("the Regulations") and Section 1 of the Employment Rights Act 1996 is that:

1. Complaint A: The late payment of the 2017 Christmas bonus (Regulation 5) is well founded.
2. The Tribunal makes the following recommendation for the purpose of obviating the effect of the infringement on the claimants:

The first respondent shall pay the claimants' 2018 Christmas Bonus entitlement by no later than the date on which the second respondent's OPG grade employees at the Leeds Mail Centre are paid their entitlement.

3. We further order Royal Mail Group Limited (being the controlling party) to pay a financial penalty to the Secretary of State of £100 per claimant in respect of this infringement.

4. Complaint 1 (the late payment of the collectively agreed 2018 5% pay increase) is not well founded.
5. Complaint 2: exclusion of the claimants from work time learning sessions on 4 June 2018 and 15 June 2018 as an infringement of Regulation 5 is not well founded.
6. Complaint 3: exclusion of the claimants from applying for internal vacancies on 14 May and 8 June 2018 (Regulation 13) is well founded and the Tribunal shall determine the remedies in relation to this infringement at a separate hearing.
7. Complaint 4: exclusion of the claimants from the system of issuing overtime in operation at Leeds Mail Centre between 18 and 24 June 2018 (Regulation 5) is not well founded.
8. Complaint 5: on 4 June issuing both claimants with a shift that was 12 minutes longer than a comparable Royal Mail employee (Regulation 5) is well founded. The Tribunal makes no financial award or recommendation.
9. Complaint 6: on 9 June 2018 deducting work breaks from both claimants' overall duration of shift working time (Regulation 5) is well founded. The respondents (the second respondent being in control of the first respondent) shall pay to the claimants the following sums amounting to two weeks' pay in respect of this infringement: Mr Kocur £868.64; Ms Roberts £1008.92.
10. Complaint 7: paying rolled up holiday pay in respect of 2.5 additional days' holiday pay in respect of a shift worked on 9 June 2018 (Regulation 5) is well founded. The Tribunal makes no financial award or recommendation.
11. Complaint 8: averaging the claimants' pay on payslips dated 27 April 2018 (Regulation 5) is not well founded.
12. Complaint 9: on 14 May and 15 June 2018 scheduling shorter break times for the claimants than a permanent colleague on shift (Regulation 5) is not well founded.
13. Complaint 10: Angard not including adequate particulars of employment in the claimants' contracts compliant with Section 1 of the Employment Rights Act 1996 in four respects (remuneration; holiday pay/entitlement; hours of work (including rest breaks); and applicable collective agreements): The Tribunal has found that due to changes and other relevant matters written particulars provided by the Angard and to some extent those declared by the Tribunal on 8 January 2018 do not now comply with Section 1 (to the extent of representing the claimants' particulars either at the commencement of these proceedings or today) and a separate Order addresses the means for their determination.
14. Complaint 11: during 23 to 29 April 2018 allocating to the second claimant four night shifts when a royal mail employee worked five night shifts (Regulation 5) is not well founded.
15. Complaint 12: during 4 June to 10 June 2018 to the first claimant 38.5 hours' night shift work when a royal mail employee worked 39 hours (Regulation 5) is not well founded.

Employment Judge JM Wade

Date 15 November 2018

Note: the claimant having requested written reasons for the Judgment above, they will be typed and provided in due course. Employment Tribunal Judgments are published on line after they are sent to the parties.