



# EMPLOYMENT TRIBUNALS

**Claimants:** Miss J Pranczk

**Respondent:** Hampshire County Council

**JUDGMENT** having been sent to the parties on 24 September 2018 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunal's Rules of Procedure 2013 the following reasons are provided.

## REASONS

1. There was no attendance by the Claimant at the hearing. The documentation on the case file confirmed that the Claimant had received notification of the hearing which had been fixed for some time and for which documents had been prepared and statements exchanged. The Claimant had not contacted the Tribunal either before, or on the day, of the hearing to explain her absence. Having considered the documents made available to it the Employment Tribunal was satisfied that it could proceed to hear the claim in the Claimant's absence.
2. The Respondent provided the Tribunal with the following documents:
  - Bundle of Documents (Exhibit R1);
  - Statement of Mrs Patricia Connor, the Respondent Senior HR Advisor (Exhibit R2); and
  - The Claimant's unsigned statement as exchanged (Exhibit C1)
3. The Claimant has been employed by the Respondent as a part time Night Care Assistant since 4 October 2012. This employment with the Respondent was continuing at the date of the hearing. The Claimant pursued claims for arrears of pay and accrued holiday pay.
4. The Claimant claims £69.23 for errors made in the calculation of her pay when she changed her working hours on or around 30 August 2015. She also claims that 8.5 hours leave entitlement which could not be used by her in 2016 / 2017 was not added to her leave entitlement for the following year. She seeks an award for 8.5 hours accrued holiday pay of £100.47 to compensate her for that lost holiday. The Claimant also made reference to victimisation relating to her long term sickness, missing certificates and a wrong work pattern but has made, and particularised, no claims as to such matters. The Claimant's ET1 was received by the Tribunal on 30 April 2018.

Therefore, the claims pursued by the Claimant had been submitted substantially out of time.

5. Miss Connor confirmed that although the Claimant had not requested that her unused leave in holiday year 2016 / 2017 be carried forward, which she could have done, that unused leave had been re-credited to her annual leave account for the following holiday year. Miss Connor also confirmed that, although the Respondent had initially denied that the wages claimed by the Claimant were owed to her, the sum claimed of £69.23 had been paid into the Claimant's bank account to settle the claim on 17 July 2018.
6. Although the Claimant pursued no other claims the Tribunal noted that the Claimant had provided no evidence that she had undertaken a protected act to support the unparticularised allegation that she had been victimised for taking sick leave, or that she had suffered a detriment. The Claimant had been re-credited with the leave she claimed had not been carried over and there could have been no detriment to her.
7. The Respondent submitted that there were no claims which the Claimant could pursue in these proceedings and that the Claimant's claims should be dismissed. The Tribunal accepted that the Claimant had no further claims to pursue in these proceedings. This avoided the necessity of the Tribunal having to consider whether or not it had jurisdiction to consider the claims when they had been submitted out of time and it appeared to have been reasonably practicable for the Claimant to have submitted those claims in time. Therefore, there were no other claims in the proceedings that remained to be adjudicated by the Tribunal and the Claimant's claims are dismissed for these reasons.
8. After the Tribunal had confirmed its Judgment Mrs Perry made an application for costs on behalf of the Respondent. She submitted that the Claimant had conducted the proceedings unreasonably by continuing to pursue claims that had no merit after 17 July 2018, which was the date on which the alleged arrears of pay had been paid into the Claimant's bank account. She submitted that the Claimant should meet the Respondent's costs for all work carried out in preparing for the hearing from 17 July 2018 onwards and attending at the hearing.
9. The Tribunal was satisfied that the Claimant had conducted the proceedings unreasonably by continuing to pursue these claims after 17 July 2018. The Tribunal was referred to a schedule / summary of the Respondent's costs (Exhibit C1) and, having considered those documents, it made an order for costs in the sum of £750 against the Claimant by reason of her unreasonable conduct of these proceedings.

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Employment Judge Craft

Date: 28 February 2019