



EMPLOYMENT TRIBUNALS

Claimant: Mr G Kuodis

Respondent: Tsl Ltd t/a Easy coach

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

- (1) The respondent must pay the claimant's accrued holiday entitlement, which is assessed in the sum of **£387.27**.
- (2) This Judgment was made and takes effect on 28 February 2019.

REASONS

1. It is not normally necessary to give reasons for a rule 21 judgment but I [Employment Judge Camp] think that in the particular circumstances of this case it would be helpful for me to do so.
2. This case was listed for a final hearing today, 28 February 2019. I first looked at the file yesterday afternoon and formed the view that the hearing was unnecessary and that it would be a waste of the claimant's time and money – he would be travelling up from Bristol – to attend. At my direction, tribunal staff telephoned him and told him not to come. He has not done so. I am therefore dealing with the case on paper under rule 21.
3. This is a claim for compensation for accrued but untaken holiday under regulations 14 and 30 of the Working Time Regulations 1998. It relates to work done from (according to the claim form) 8 May to 19 June 2018. The claimant has provided wage slips for May and June 2018. Payment for work done in June was paid on 15 July 2018. The claimant went through early conciliation from 23 September to 16 October 2018 and the claim was issued on 16 October 2018. There are therefore no time limits issues.
4. The wage slip for June shows the claimant's taxable gross pay for the year to 30 June 2018 as £8,344.25. For May and June 2018, his gross pay was £3,208.50. The claim form states that his employment began on 8 May 2018, but that cannot be right if the wage slips are right. Nevertheless, I am proposing to deal with the claim as it has been put in the claim form, which is (section 8.2 of the form), "*From 08.05.2018 'til 19.06.18 I have worked for TSL Ltd as a minibus driver. After I finished I did not get paid my*

holiday money...". No doubt if the claimant made a mistake on his claim form and meant to be claiming the accrued holiday pay that would have been due to him on the basis of pay totaling £8,344.25 (or some other figure) rather than pay totaling £3,208.50, he will be writing to the tribunal for a reconsideration.

5. The wage slips do not show any holiday pay being paid in relation to the months of May and June 2018 and I therefore assume that no holiday was taken during those months. The claimant's accrued holiday pay for those two months can be calculated as a percentage of total pay – 12.07 percent in accordance with Brazel v The Harpur Trust [2018] UKEAT 0102_17_0603. 12.07 percent of £3,208.50 is £387.27.
6. Finally, I note that no papers have ever been successfully served on the respondent by the tribunal. Post sent to the address provided by the claimant – the address from which he worked – has been returned marked "*addressee gone away*". For reasons that are unclear, no attempt has been made to serve anything on the respondent at its registered office. I asked Regional Employment Judge Monk whether she would be willing to make an order for substituted service under rule 89 and she has done so. This judgment will therefore be served on the respondent at its registered office address: Chalfont Park House, Chalfont Park, Gerrards Cross, Bucks, SL9 0DZ

Employment Judge Camp

28 February 2019

Sent to the parties on:

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For the tribunal:

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