



THE EMPLOYMENT TRIBUNAL

SITTING AT:

LONDON SOUTH

BEFORE:

EMPLOYMENT JUDGE BALOGUN

BETWEEN:

Miss Z Bisewska

Claimant

AND

Nail & Beauty Lounge Clapham Ltd

Respondent

ON: 6 April 2018

Appearances:

For the Claimant: In Person

For the Respondent: Ms Sharon Phillips, Consultant

JUDGMENT

1. The Respondent owes the Claimant statutory maternity pay in the sum of **£3,022.06**.
2. The claim for holiday pay is dismissed.

REASONS

1. By a claim form presented on 16 October 2017, the Claimant claims unlawful deduction of wages in respect of arrears of statutory maternity pay (SMP) and holiday pay. The Claimant is still on maternity leave and by agreement, the tribunal granted her permission at the hearing to amend her claim to include SMP payments due up to and including the week of the hearing.

2. It was agreed between the parties that 90% of the Claimant's average weekly earnings for the relevant period was £152.53 per week and that accordingly, her entitlement for the first 6 weeks of maternity leave (i.e. 31/7/17 – 11/9/17) was £915.18.
3. Thereafter, the Claimant was entitled to 33 weeks of SMP at the prescribed rate of £140.98. Between 11/9/17 and 6/4/18 (today's hearing) the Claimant accrued 30 weeks of SMP at the prescribed rate, totalling £4229.40.
4. The total SMP accrued as at the date of the hearing is: £915.18 + £4229.40 = £5144.58.
5. The parties agree that the Respondent has paid the Claimant £2,122.52 towards her SMP entitlement. Therefore the balance due to the Claimant is **£3,022.06**.
6. Turning to the claim for holiday pay, the Claimant seeks payment in lieu of holiday she was unable to take because of her maternity leave. The Claimant can only bring a claim for holiday pay in this jurisdiction if she has taken holiday for which she has not been paid or for holiday which has accrued and is untaken on termination. Neither of those situations apply in this case. The claim is therefore misconceived and is dismissed.

Employment Judge Balogun

Date: 6 April 2018