



# THE EMPLOYMENT TRIBUNALS

**Claimant**

Ms C Cottam

**Respondent**

The Darlington Central Working Men's Club and Institute Ltd

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Held at Middlesbrough

ON11th April 2018

EMPLOYMENT JUDGE GARNON (sitting alone)

### **REMEDY JUDGMENT FOLLOWING A JUDGMENT ON LIABILITY ONLY** **(made under Rule 21 of the Employment Tribunal Rules of Procedure 2013)**

The Judgment of the Tribunal is:

1. The claimant is entitled to a redundancy payment payable by the respondent in the sum of £ 2028
2. On the claim of breach of contract ( described in the liability judgment as unpaid wages) the respondent is ordered to pay to the claimant damages of £1120
3. On the claim for compensation for untaken annual leave ( described in the liability judgment as unpaid holiday pay) the respondent is to pay to the claimant compensation of £449.54.

## **REASONS**

### **1THE ISSUES**

1.1.. A judgment by Employment Judge Buchanan on 7 March 2018 held the claimant was entitled to a redundancy payment and holiday pay The claim form did include a claim of breach of contract and that is what was meant by "unpaid wages" in the liability judgment . Holiday pay means compensation for untaken annual leave

1.2. The task for me today is to quantify the claimant's remedy under each claim.

### **2 THE RELEVANT LAW**

2.1 The law relating to redundancy payments is in Part XI of the Employment Rights Act 1996 ( the Act ) A claimant is entitled to a payment of 1.5 weeks gross pay for every complete year of continuous employment, ending with the "relevant date" during the whole of which she was over 41. For calculation purposes the relevant date is extended by the minimum amount of statutory notice under s 86.

2.2. The common law provides a contract of employment may be brought to an end by reasonable notice. Dismissal without such notice is termed "wrongful". Damages for wrongful dismissal are the net pay due during the notice period (see Addis v The Gramophone Company)

2.3. The Working Time Regulations 1998 say in Regulation 14 that where a worker's employment is terminated during the course of his leave year, and on the date on which the termination takes effect the proportion he has taken of the leave to which he is entitled in the leave year under regulation 13(1) differs from the proportion of the leave year which has expired. his employer shall make him a payment in lieu of untaken leave calculated by a formula set out in Reg 14

### **3 FINDINGS OF FACT AND CONCLUSIONS**

3.1. The claimant was continuously employed from 28<sup>th</sup> November 2010 until she was dismissed as redundant upon closure of the respondent by letter of 25<sup>th</sup> October 2017 saying her employment would end on 28<sup>th</sup>. The relevant date for calculating her years of continuous employment becomes 13<sup>th</sup> December 2017. She was born on 13<sup>th</sup> August 1957. Therefore she has 8 years of continuous employment all over the age of 41 and is entitled to 12 weeks gross pay of £169 per week

3.2. She had accrued leave entitlement of 4.66 weeks during the leave year which was the calendar year. She had taken 2 weeks so had 2.66 left at £169 per week gross = £449.54

3.3. Her notice entitlement under s86 was 7 weeks. She was paid none of it. Her net pay was £160, so her damages are £1120

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**T M Garnon EMPLOYMENT JUDGE**

**JUDGMENT SIGNED BY EMPLOYMENT JUDGE ON 11<sup>th</sup> APRIL 2018**