



THE EMPLOYMENT TRIBUNALS

Claimant: Miss Kerry Hassan

Respondent: Ice Hub Catering Limited

Heard at: North Shields **On:** 11 May 2018

Before: Employment Judge Bauer

Representation:

Claimant: In person

Respondent: Did not attend

JUDGMENT

The claimant is entitled to £118.13 of notice pay and £570.28 of holiday pay. In addition as a result of the respondent's failure to comply with section 1 Employment Rights Act 1996 and pursuant to section 38 Employment Act 2002, I also award the claimant a further two weeks' gross pay totalling £416.26 and therefore the respondent is ordered to pay a total of £1,104.67.

REASONS

- 1 The respondent did not attend and the claimant gave evidence on her own behalf.
- 2 Pursuant to rule 21 Employment Tribunal Procedures Regulations 2013 I have made a decision on the evidence available before me including the ET1 provided by the claimant, the evidence of the claimant and the payslips that the claimant provided on the day of the hearing.
- 3 The claimant was employed from 1 September 2017 to 25 February 2018. Her employment terminated without payment of notice or notice being given or accrued but untaken holiday pay being paid.
- 4 No written contract of employment or section 1 written particulars were provided to the claimant and there was no relevant agreement regarding holiday pay.

- 5 The claimant worked variable hours each week but in the 12 week period that is relevant for the purposes of the calculations in this case and based upon the payslips the claimant provided and the evidence she gave at the hearing I find that in the 12 week period from 3 December 2017 to 25 February 2018 the claimant's average gross weekly pay was £208.13 per week.
- 6 In the absence of a relevant agreement, the claimant's leave year pursuant to regulation 13(3)(b)(ii) Working Time Regulations 1998 ran from 1 September 2017 and therefore as per regulation 14(3)(b) Working Time Regulations 1998, the claimant's accrued but untaken holiday pay based on 178 days worked comes to 2.74 weeks. The claimant was entitled to 5.6 weeks holiday per year and took no holidays in the period of her employment. Consequently, the claimant had accrued 2.74 weeks of holiday for which she was not paid which at the weekly rate of £208.13 makes a total of £570.28.
- 7 Section 86 of the Employment Rights Act means the claimant is entitled to one week's notice pay which calculated in accordance with section 224 Employment Rights Act 1996 based on a weekly pay as detailed above of £208.13 means the claimant was entitled to £208.13 of notice pay. However, the claimant worked during part of the period of her notice and earned £90.00 during this period. Therefore, the balance due to her in respect of her losses for notice come to £118.13.

EMPLOYMENT JUDGE BAUER

JUDGMENT SIGNED BY EMPLOYMENT JUDGE

ON

22 May 2018

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