



# THE EMPLOYMENT TRIBUNALS

**Claimant**  
**Mr D Matthews**

**Respondent**  
**Mr Kenneth Jones and Mrs Claire Jones**  
**t/a Aquapure Cleaning**

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Held at Middlesbrough  
EMPLOYMENT JUDGE GARNON

On 28<sup>th</sup> August 2018

Appearances  
Claimant did not attend  
For Respondent Mr K Jones

### JUDGMENT

- 1. The name of the respondent is amended to that shown above.**
- 2. The claim for compensation for untaken annual leave is not well founded and is dismissed**

### REASONS

1. The claimant did not attend today but had sent written representations which I fully considered as I am always happy to do. That said, all he says is that he has input dates and amounts into a calculator on the GOV.UK website which has produced the figure of £697.50 owed to him. Such websites are only as reliable as the information put into them. Even if the claimant had attended today, he could have told me no more than that. I have to set that against the oral evidence for the respondent and the documents they produced today

2. Mr Kenneth Jones explained the claimant had misnamed the respondent which is not a limited company but a partnership of himself and his wife. I therefore amend the title of the action accordingly.

3. The Working Time Regulations 1998( WTR) say where a worker's employment ends during the course of a leave year and the proportion of leave he has taken in the leave year in which his employment ended is less than the amount of leave which had accrued due under the WTR, his employer shall make him a payment in lieu of untaken leave calculated by a formula in Regulation 14.

4. I find the claimant was employed from 6 March 2017 until 12<sup>th</sup>, rather than the 19<sup>th</sup> as he said, January 2018. There was no "relevant agreement" in writing defining the leave year, so it commences on the anniversary of him starting. A total of 313 days of the year had elapsed. His pay was £ 240 not the £250.56 he stated in his claim form.

5. His annual leave entitlement is by statute 5.6 weeks. The first part of the calculation is 5.6 divided by 365 and multiplied by 313 = 4.8 weeks leave due. He worked 32 hours a week spread over five days. Both he and the respondent have expressed their calculations in hours 153.6.

6. The claimant says he took 2 weeks leave plus bank holidays. However Mr Jones produced to me today a document prepared by the person who does the payroll showing exactly how many hours of holiday the claimant had taken and been paid for in the relevant period. It comes to 153.4. If I as the WTR require, I deal with this in terms of whole days the claimant has been paid in full and therefore his case fails.

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**TM Garnon Employment Judge**  
**Date signed 28<sup>th</sup> August 2018**