



EMPLOYMENT TRIBUNALS

Claimant: Mr W. Mann

Respondent: Multi-Vehicle Movers Limited

Heard at: Birmingham **On:** 27 June 2019

Before: Employment Judge D. Reed, (Sitting alone)

Representation

Claimant: In person

Respondent: No attendance

JUDGMENT

The Judgment of the Tribunal is that the Respondent made unauthorised deductions from the wages of the Claimant in respect of holiday pay and is directed to pay him £1,227.60.

REASONS

1. In this case the Claimant Mr Mann said he had been underpaid holiday pay during his employment with his employers Multi-Vehicle Movers Limited ("the Company"). There was no attendance on behalf of the Company. I took evidence from Mr Mann, which I accepted and which was to the following effect.
2. Mr Mann was employed by the Company from the 27 April 2018 to 18 April 2019, earning 5.5 weeks holiday. He received pay slips during that period, but it was not possible to tell from them what exactly he had received by way of holiday pay.
3. He confirmed that he had taken some 19 days holiday during that period. In so far as he could tell from his pay slips, for each day of holiday he had received payment on the basis of an 8-hour day. However, he contended that he worked a 56-hour week on an invariable basis and therefore was entitled to payment of 11.2 hours per day.
4. It followed that for those 19 days he was underpaid by 3.2 hours. He was paid £12.00 per hour so the shortfall was £729.60.

5. Since he took 3.4 weeks holiday, it followed that he was entitled to a payment of holiday accrued and untaken of 2.1 weeks (at the hearing in this matter, I indicated incorrectly that that figure was 2.3 weeks and therefore that there was a larger sum due to him than in fact was the case).
6. The requirement to take into account overtime such as that worked by Mr Mann in the calculation of holiday pay applies only in respect of holiday mandated by European directive i.e. the first 4 weeks. In respect of the remaining 1.5 weeks, he can only claim his “basic” 8 hours per day pay.
7. Dealing firstly with that 4-week (i.e. 20 day) period, it follows that he was entitled to the higher rate for 1 day (he had taken 19 days of those 20 already), amounting to $11.2 \times £12.00$ or £134.40.
8. He can only claim holiday pay for the remaining 1.5 weeks on the basis of an 8-hour day, i.e.: $1.5 \times 40 \times £12 = £720.00$.
9. It follows that the gross sum due to him is £729.60 plus £134.40 plus £720.00, or £1,584.00 (and not the sum of £1,987.20 that I indicated to him at the hearing).
10. On the basis of his gross annual pay of £37,211.00, tax and National Insurance would have been deducted at a rate of 22.5%. It follows that the net sum due to him is £1,227.60 (and not £1,540.08 as I indicated at the hearing).

Employment Judge D. Reed

Dated: 03 July, 2019