



**EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 4100025/2019**

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**Held in Glasgow on 29 March 2019**

**Employment Judge: Claire McManus**

10 **Miss M Ross**

**Claimant  
In Person**

15 **Cowal Golf Club**

**Respondent  
No Appearance**

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**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The judgment of the Tribunal is that:-

- 20 • the claimant having been dismissed by reason of redundancy by the Respondent is entitled to a statutory redundancy payment and the Respondent is ordered to pay to the claimant the sum of £595.38 (FIVE HUNDRED AND NINETY FIVE POUNDS AND THIRTY EIGHT PENCE) in respect of this statutory redundancy payment.
- 25 • The claimant is entitled to the net sum of £539.57 (FIVE HUNDRED AND THIRTY NINE POUNDS AND FIFTY SEVEN PENCE) from the Respondent in respect of her entitlement to 12 weeks statutory notice pay.

**REASONS**

**Background**

- 30 1. The ET1 was received at the Central Office of the Employment Tribunals (Scotland) on 4 January 2019. The claims made were for redundancy payment and statutory notice pay only, against the named respondent. An ET3 response was lodged on 8 February 2019. In this it was indicated that

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there would be no appearance by or on behalf of the respondent at any hearing in this case.

2. At the outset of this Final Hearing, following discussion, the claimant confirmed that she wished to proceed against the named respondent only.

5 **Issues**

3. The Tribunal required to determine the claimant's entitlement to statutory redundancy pay and notice pay.

**Relevant Law**

Redundancy Pay

- 10 4. The right to a redundancy payment is set out in the Employment Rights Act ('ERA') Section 135. Statutory redundancy pay is calculated in terms of section 162 ERA, with reference to the employee's number of complete years of service with the employer, the gross weekly wage and the appropriate amount with reference to the employee's age. Regard must be taken of the  
15 'relevant date' in terms of sections 145, 155 and 162 ERA and the 'calculation date' in terms of section 226 ERA. The calculation of a 'week's pay' is with regard to the 'calculation date'. Section 224 ERA provides for the calculation of the amount of a week's pay in employment with no normal working hours. Section 227 ERA sets out the maximum amount of a week's pay to be used  
20 in this calculation.

Notice Pay

5. The rights in respect of a minimum period of notice of termination of employment are set out at Part IX of the ERA.

**Findings in Fact**

- 25 6. The claimant was employed at Cowal Golf Club from 24 June 2005 until 30 September 2018, when her employment was terminated by reason of redundancy. During her employment the claimant's hours changed, and for some months prior to the termination of her employment, the claimant had

had no normal working hours. The claimant had previously worked full-time hours there, as bar manager. The claimant's hours had been reduced. The claimant continued to work for the respondent on these reduced hours. The claimant worked such shifts as were offered to her, which were sometimes cancelled at short notice when a decision was made not to open the club e.g. due to weather conditions. On those occasions, the claimant received no payments.

7. The claimant's pay slip from the respondent dated 25 May 2018, shows that the claimant was then paid for 40 hours at an hourly rate gross of £7.83, being a gross payment that month of £313.20 (net pay £297.20).
8. The claimant's pay slip from the respondent dated 27 June 2018, shows that the claimant was then paid for 33 hours at an hourly rate gross of £7.83, being a gross payment that month of £258.39 (net pay £242.39).
9. The claimant's pay slip from the respondent dated 25 July 2018, shows that the claimant was then paid for 29 hours at an hourly rate gross of £7.83, being a gross payment that month of £227.07 (net pay £211.07).
10. The claimant's pay slip from the respondent dated 27 August 2018, shows that the claimant was then paid for 30 hours at an hourly rate gross of £7.83, being a gross payment that month of £234.90 (net pay £218.90).
11. The claimant worked two shifts in September 2014, being seven hours on a Friday night and seven hours on a Saturday night. She did not receive a wage slip from the respondent in respect of that work. The claimant was told by Donald Mackay, former Club Captain, that she would not receive payment in respect of that work because money was owed from her in respect of holiday payments. The claimant's gross earnings in respect of those shifts worked were (14 x £7.83) £109.62.
12. The claimant was told by Donald Mackay in a telephone conversation on 28 September 2018 that her employment was being terminated by reason of redundancy. This position was confirmed to the claimant in letter from Douglas Wright dated 27 September 2018 in the following terms:-

5 *'As you are aware the club's financial position has been precarious for some time with the Bank of Scotland governing our week to week existence. Sadly, in terms of being able to employ staff and pay them accordingly, the club has reached its climax and we now have to make you redundant, as of Sunday, 30 September 2018.*

10 *We are unable to pay any redundancy due to our financial position, but will do our utmost to support you and provide the required information for you to make a claim through the Government's statutory legislation covering redundancy and statutory notice - in relation to your years of service which we have been unable to provide.*

*We would like to take this opportunity to thank you for all your efforts over the past 13 ½ years. Your service and dedication to Cowal Golf Club as an employee has been exemplary.*

15 *We wish you well in the future and should you require a reference please make contact and this will be provided.'*

13. The claimant did not receive any payment in lieu of notice of termination of her employment.

14. The claimant had no normal hours in force on the calculation date. The claimant's date of birth is 14 June 1984. The claimant had 13 complete years of service with the respondent from 24 June 2005 to 30 September 2018. The claimant was aged 34, as at the calculation date of 30 September 2018.

**Decision**

15. I accepted the claimant's oral evidence, which was uncontested and consistent with the documents relied upon by her. There was a redundancy situation at Cowal Golf Club which affected the claimant and was the reason for the termination of her employment there. The claimant is entitled to statutory redundancy pay and notice pay.

16. On the application of section 224 ERA 1996, because the claimant had no normal working hours in force on the calculation date, the claimant's

5 redundancy payment is calculated with regard to the amount of the employee's average weekly remuneration in the period of 12 weeks ending on the calculation date of 30 September 2019. The claimant's statutory redundancy payment is calculated with regard to claimant's average earnings in the 12 week period prior to 28 September 2018. The claimant's average gross weekly pay in that period was ((£227.07 + £234.90 +£109.62) /12) £47.63. Taking into account her age (34) and number of complete years of service (13), the claimant is entitled to statutory redundancy pay of (12.5 x £47.63) £595.38.

10 17. The claimant is entitled to payment in lieu of 12 weeks' notice, based on her to her average earnings in the 12 week period prior to the calculation date. The claimant's average earnings in this 12 week period was £44.96. The claimant is entitled to statutory notice pay of (12 x £44.96) £539.57.

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20	<b>Employment Judge</b>	<b>C McManus</b>
	<b>Date of Judgment</b>	<b>02 April 2019</b>
25	<b>Entered in register and copied to parties</b>	<b>03 April 2019</b>

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