



EMPLOYMENT TRIBUNALS

Claimant

Respondent

- | | | |
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| 1. Miss H Miller | v | 1. Gemma Devine |
| 2. Miss L Clynes | | 2. Little Rascals Nursery Group Limited |
| 3. Miss E Gurney | | |
| 4. Miss E Harding | | |
| 5. Miss K Lyons | | |
| 6. Miss H Cutler | | |
| 7. Miss S Collins | | |
| 8. Miss J Pearman | | |
| 9. Miss M England | | |
| 10. Mrs D Sanders | | |

Heard at: Watford
Before: Employment Judge Henry

On: 25 July 2019

Appearances

For the Claimants: In person

For the Respondent: Did not attend and was not represented

JUDGMENT

1. The claims of Miss K Lyons, claim number 3330839/2018 and Miss J Pearman, claim number 3330842/2018 are dismissed for not having been actively pursued.
2. The claim against Gemma Devine is dismissed as she is not a proper respondent to the claims.
3. The tribunal awards the claimant, Miss Miller, a total award in the sum of £2,777.89.
4. The tribunal awards the claimant, Miss Clynes, a total award in the sum of £1,138.28.
5. The tribunal awards the claimant Miss Gurney a total award in the sum of £1,936.38

6. The tribunal awards the claimant, Miss Harding, a total award in the sum of £1,604.87.
7. The tribunal awards the claimant, Miss Cutler, a total award in the sum of £1,281.17
8. The tribunal awards the claimant, Miss Collins, an award in the sum of £540.
9. The tribunal awards the claimant, Miss England, a total award in the sum of £1,306.38.
10. The tribunal awards the claimant, Mrs Sanders, a total award in the sum of £1,032.75.
11. The respondent, Little Rascals Nursery Group Limited, is ordered to pay the claimants the sums above stated

REASONS

1. The claimants, by a composite claim form presented to the tribunal on 21 June 2018, presents complaints for unfair dismissal, breach of contract, in respect of notice, a claim for holiday pay accrued but untaken at the time of termination, and a claim for wages owed.
2. The complaints for unfair dismissal, save for the claimants, are dismissed on the claimants not having been employed for two years and, accordingly, do not have the right to bring a complaint for unfair dismissal.
3. In respect of the claimants, Miss Cutler, Mrs Sanders and Miss England, these claimants have received redundancy payments from the Secretary of State and do not pursue a claim for unfair dismissal before this tribunal.
4. It is also here noted that, the claim form as presented included claims for Miss K Lyons, claim number 3330839/2018 and Miss J Pearman, claim number 3330842/2018. These individuals were not in attendance at the hearing and their claims have not been pursued on their behalf. The claims are accordingly dismissed for not having been actively pursued.
5. The correct respondent to the claim is Little Rascals Nursery Group Limited.
6. The claim against Gemma Devine is dismissed as she is not a proper respondent to the claims.

Evidence

7. The tribunal heard evidence from the claimants in respect of the sums claimed and had before it a bundle of documents, Exhibit C1. The respondent, was not in attendance. The tribunal had before it the respondent's response to the claim, which has been considered.

Facts

8. The facts to this case are very brief and are as follows:
9. On 1 April 2018, the claimants learned of the respondent nursery being closed from third parties. On the claimants pursuing this with the respondent, on the 3 April 2018, the claimants were informed that the nursery was then closed and not accepting children, but that their employment would continue in the expectation that a new employer would take over the running of the nursery.
10. On 12 April 2018, the claimants received correspondence from the respondent stating:

"I am writing to confirm that from 1 April 2018 Little Rascals Nursery Group Limited has stopped trading and Little Rascals Nursery has been closed permanently."
11. By the claimant's contracts of employment, it provides for holiday entitlement of 28 days with the holiday leave year running from 1 May to 30 April, and provides:

"On termination of employment holidays will be calculated in proportion to the full entitlement. If you have taken less than this entitlement the surplus holiday will be added to your final pay...."
12. By the contract, notice is provided for in the following:

"Notice period to be given by the employer to the employee

The nursery has the right to serve notice of termination of your employment at any time in accordance with the notice provisions below

Less than 1 months service – nil

1 months service to the satisfactory completion of your probationary period – 1 week.

From the satisfactory completion of your probationary period but less than 5years – 1 month.

5 years service or more – 1 week for each complete year of service up to a maximum of 12 weeks....

Pay in lieu of notice

It is agreed that the nursery may terminate your employment with immediate effect upon notification that a payment in lieu of notice is to be made to you. You shall not be entitled to any benefit other than pay or money in lieu of such benefits in respect of any period for which payment in lieu is to be made.”

13. The claimants have not received any payments from the respondent after 31 March 2018.

Conclusions

Miss Miller

14. Miss Miller commenced employment on 14 June 2017. The effective date of termination was 12 April 2018; Miss Miller then having been employed for seven months.

Wages

15. The claimant was entitled to a wage of £341.54 per week. The claimant was not paid a wage for the period from 1 April to 12 April 2018, a total of nine working days. The tribunal awards the claimant the sum of £614.79, in respect of wages owed.

Notice

16. By the claimant’s contract of employment, she was entitled to one month’s notice of termination. The claimant has not received one month’s notice of termination or otherwise paid in lieu thereof, and is therefore entitled to the same. The tribunal awards the claimant £1,480, in respect of her entitlement to notice.

Annual Leave

17. The claimant had accrued 10 days annual leave which remained untaken at the time of termination of employment. The tribunal awards the claimant £683.10.
18. The tribunal awards the claimant Miss Miller a total award in the sum of £2,777.89.

Miss Clynes

19. Miss Clynes commenced employment with the respondent on 24 October 2016. The effective date of termination was 12 April 2018; Miss Clynes had been employed for one year six months.

Wages

20. The claimant's weekly wage was £185.59. The claimant has not received a wage for the period 1 April to 12 April 2018, a total of nine days. The tribunal awards the claimant the sum of £334.08, in respect of wages owed.

Notice

21. By the claimant's contract of employment, she was entitled to one month's notice of termination. The claimant has not received one month's notice of termination or otherwise paid in lieu thereof, and is therefore entitled to the same. The tribunal awards the claimant the sum of £804.20 in respect of her entitlement to notice.
22. The tribunal awards Miss Clynes a total award in the sum of £1,138.28.

Miss Gurney

23. Miss Gurney commenced employment with the respondent on 26 August 2016. The effective date of termination was 12 April 2018; Miss Gurney having been employed for one year seven months.

Wages

24. Miss Gurney's weekly wage was £279.28. Miss Gurney did not receive a wage for the period from 1 April to 12 April 2018, a total of nine days. The tribunal awards the claimant the sum of £502.74 in respect of wages owed.

Notice

25. By the claimant's contract of employment, she was entitled to one month's notice of termination. The claimant has not received one month's notice of termination or otherwise paid in lieu thereof, and is therefore entitled to the same. The tribunal awards the claimant the sum of £1,210.20, in respect of her entitlement to notice.

Holiday

26. The claimant had accrued four days annual leave which remained untaken at the time of termination of employment. The tribunal awards the claimant £223.44.

27. The tribunal awards Miss Gurney a total award in the sum of £1,936.38

Miss Harding

28. Miss Harding commenced employment with the respondent on 1 October 2017. The effective date of termination was 12 April 2018; Miss Harding having been employed for six complete months.

Wages

29. Miss Harding was entitled to a wage of £261.67 weekly. The claimant has not received a wage for the period from 1 April to 12 April 2018, a total of nine days. The tribunal awards Miss Harding £470.97 in respect of wages owed.

Notice

30. By the claimant's contract of employment, she was entitled to one month's notice of termination. The claimant has not received one month's notice of termination or otherwise paid in lieu thereof, and is therefore entitled to the same. The tribunal awards the claimant the sum of £1,133.90 in respect her entitlement to notice
31. The tribunal awards Miss Harding a total award in the sum of £1,604.87.

Miss Cutler

32. Miss Cutler commenced employment with the respondent on 3 September 2012. The effective date of termination was 12 April 2018; Miss Cutler having completed five complete years.

Wages

33. Miss Cutler's weekly wage was £188.41. Miss Cutler has not received a wage for the period from 1 April to 12 April 2018, a total of nine days. The tribunal awards Miss Cutler the sum of £339.12 in respect of wages owed.

Notice

34. By the claimant's contract of employment, she was entitled to five weeks' notice of termination. The claimant has not received notice of termination or otherwise paid in lieu thereof, and is therefore entitled to the same. The tribunal awards the claimant Miss Cutler the sum of £942.05 in respect of notice to which she was entitled.
35. The tribunal awards Miss Cutler a total award in the sum of £1,281.17

Miss Collins

36. Miss Collins commenced employment with the respondent on 11 September 2017. The effective date of termination was 12 April 2018. Miss Collins having been employed for seven months.

Notice

37. By the claimant's contract of employment, she was entitled to one month's notice of termination. On Miss Collins having given notice of termination and worked two weeks of her four weeks' notice as given at the time of termination, Miss Collins was entitled to a further two weeks' pay in respect of her notice period she was then working. The tribunal awards the claimant the sum of £540.

Miss England

38. Miss England commenced employment with the respondent on 11 February 2012. The effective date of termination was 12 April 2018; Miss England having been employed for six complete years.

Wages

39. The claimant's weekly wage was £167.48. Miss England did not receive a wage for the period from 1 April to 12 April 2018, a total of nine days. The tribunal awards Miss England the sum of £301.50 in respect of wages owed.

Notice

40. By the claimant's contract of employment, she was entitled to six weeks' notice of termination. The claimant has not received notice of termination or otherwise paid in lieu thereof, and is therefore entitled to the same. The tribunal awards the claimant Miss England the sum of £1,004.88 in respect of notice to which she was entitled.
41. The tribunal awards Miss England a total award in the sum of £1,306.38.

Mrs Sanders

42. Mrs Sanders commenced employment with the respondent on 8 March 2011. The effective date of termination was 12 April 2018; Mrs Sanders having completed seven complete years.

Wages

43. Mrs Sanders' weekly wage was £114.75. Mrs Sanders has not received a wage for the period from 1 April to 12 April 2018, a total of nine days. The tribunal awards Mrs Sanders the sum of £206.55 in respect of wages owed.

Notice

44. By the claimant's contract of employment, she was entitled to seven weeks' notice of termination. The claimant has not received notice of termination or otherwise paid in lieu thereof, and is therefore entitled to the same. The tribunal awards the claimant Mrs Sanders the sum of £803.25 in respect of notice to which she was entitled.

Holiday pay

45. The claimant had accrued one day annual leave which remained untaken at the time of termination of employment. The tribunal accordingly awards Mrs Sanders the sum of £22.95 in respect of accrued annual leave.
46. The tribunal awards Mrs Sanders a total award in the sum of £1,032.75.
47. The respondent, Little Rascals Nursery Group Limited, is ordered to pay the claimants the sums above stated.

Employment Judge Henry

Date:7/8/19..

Sent to the parties on:2/9/19.

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For the Tribunal Office

**Case Number: 3330835/2018, 3330836/2018, 3330837/2018
3330838/2018, 3330839/2018, 3330840/2018, 3330841/2018
3330842/2018, 3330843/2018, 3330844/2018**

- 1. Miss H Miller 3330835/2018**
- 2. Miss L Clynes 3330835/2018**
- 3. Miss E Gurney 3330837/2018**
- 4. Miss E Harding 3330838/2018**
- 5. Miss K Lyons 3330839/2018**
- 6. Miss H Cutler 3330840/2018,**
- 7. Miss S Collins 3330841/2018**
- 8. Miss J Pearman 3330842/2018**
- 9. Miss M England 3330843/2018**
- 10. Mrs D Sanders 3330844/2018**