



EMPLOYMENT TRIBUNALS

Claimant: Miss A Chadwick
Respondent: The Vault (Mansfield) Limited
Heard at: Nottingham **On:** Friday 11 October 2019
Before: Employment Judge Hutchinson (sitting alone)

Representation

Claimant: In person
Respondent: No appearance

JUDGMENT having been sent to the parties on 11th October 2019 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

Background to this claim

1. The Claimant presented her claim to the tribunal on 17 June 2019. The Respondent operates a public house known as The Vaults in Market Place, Mansfield. The Claimant was employed there working in the bar from 25 February 2019 until 3 April 2019. She claimed;
 - breach of contract in respect of notice;
 - holiday pay;
 - wages.
2. She complained that whilst working for the Company, they had failed to pay her for the hours that she had worked and for holiday pay on leaving. She was dismissed without notice over the telephone when her manager said that he did not think she was happy at her work and that he had had complaints about her from other members of staff. The Claimant had no knowledge of any such complaints.

3. I had to determine;
 - 3.1 whether at the termination of her employment, the Claimant was due outstanding wages;
 - 3.2 whether she had been paid her holiday entitlement;
 - 3.3 when she was dismissed without notice, was the Respondent entitled to dismiss her without notice because she had committed a fundamental breach of her contract of employment.
4. The Respondent denied the allegations saying that the Claimant had been asked to leave during her trial period for being aggressive to a member of staff and had been paid for all the hours that she worked and holiday pay.

The hearing today

5. The Claimant represented herself. The Respondent decided not to attend the hearing and the matter proceeded therefore in their absence.

Evidence

6. I heard evidence from the Claimant only. What she said to me was credible and consistent with what she had said in her Claim Form. No documents were provided by either party. The only information provided by the Respondent was that contained in the ET3. It said that the Claimant had made false allegations in her claim and that she had been on a trial period when complaints were made by other staff regarding her smoking breaks. They alleged that she had become aggressive when she was questioned about this asked to leave. They said that she had been paid for all the hours that she had worked and her holiday pay and that she was not entitled to any notice pay I put to the Claimant the Respondent's case as set out in their ET3.

Findings of fact

7. The Claimant was employed at The Vaults public house in Mansfield by the Respondent. She started work on 25 February 2019 and was dismissed without notice on 4 April 2019 in a telephone conversation with Mr John Haynes, who was her manager.
8. The Claimant worked 35 hours per week. Her net take home pay was £297.50 per week.
9. During the time that she worked at The Vaults, she worked a total of 141 hours and 18 minutes at £8 per hour and 14 hours at £8.50 per hour when the minimum wage was increased on 1 April 2019. She therefore earned a total of £1,249.40. At the date of termination of employment, she had been paid £1,092.40, which means that there has been an unlawful deduction of wages of £157. The Claimant had collected her belongings following her dismissal but her jeans were missing. No explanation was given for this and I am

satisfied that this also amounted to a further deduction of her wages in the sum of £25 which I am satisfied is the value of the jeans.

10. The Claimant was not paid her holiday pay at the termination of her employment. At the termination of her employment, she had accrued a total of 26 hours and accrued a further 3.82 hours during the notice period that she should have been able to work. The Claimant is therefore owed a total of £253.05 in holiday pay.
11. On 3 April 2019, the Claimant had an argument with the manager's wife, Denise, regarding her lack of breaks. She had understood at the start of her employment, that she would be able to take a 10-minute break and a 30-minute lunch break during her shifts. She worked in the kitchen though and when the chef was not at work, there was only herself and another woman in the kitchen, neither of whom were chefs. Neither could therefore be left alone in the kitchen as no cover was provided in the chef's absence.
12. The Claimant had complained about this but was told that she would have to "*muddle through*".
13. On 3 April 2019, the Claimant started work at 8.30 am and at around 1.30 pm, asked whether she would be allowed to have a break.
14. At 2.45 pm, Mr Haynes told the Claimant's colleague to take a break and when the Claimant asked if she was going to be allowed to have a break, she was told that she had already taken three smoke breaks so she had had her break. The Claimant disputed this, saying that she had just taken 2 x 5 minutes smoke breaks instead of her 10-minute tea break and that she wanted a 30-minute lunch break.
15. When her colleague returned, there was a dispute with Denise Haynes about whether the Claimant was entitled to a break. By now, it was 3.25 pm and the Claimant had been working since 8.30 am with just two short cigarette breaks. The dispute between them became heated and voices were raised.
16. The following day, the Claimant was ill and sent a message to Mr Haynes to say that she was not fit to attend work. Later that day, Mr Haynes telephoned her and said that he did not think that she was happy in her job. The Claimant explained that she just had a problem regarding breaks and that she had not been paid properly and that this was causing her unnecessary stress.
17. Mr Haynes then said to the Claimant that he would have to let her go as "*it was not working out*" and that he had received complaints about her. He had never mentioned any complaints previously. When asked what the complaints were about, he would not tell her. She was not paid her notice pay.
18. **My conclusions**

18.1 **Wages**

I am satisfied with the evidence that the Claimant has given and that she is owed a total of £184 in wages, comprising £159 shortfall in wages and £25 in respect of her jeans.

18.2 **Holiday pay**

The Claimant has accrued and not been paid any holiday pay. Including her notice pay, I am satisfied that the total amount due in holiday pay is £253.05.

18.3 **Notice pay**

The Claimant has not been paid notice. She is entitled to one week's notice. Her weekly pay was £297.50. The Respondent has not established that they were entitled to dismiss her without notice. The Claimant is therefore due £297.50, which is her net notice pay.

18.4 **Costs**

I am satisfied that the Claimant is entitled to the costs and disbursements in prosecuting this claim. The Respondent has not attended the hearing to defend the claim and I am satisfied they had no reasonable prospects of defending the claim because they knew that she was entitled to the monies I have ordered them to pay. The Claimant incurred £20 in expenses in attending the hearing today and a further £6.46 in photocopying. The total costs she has incurred is £26.46 and I order the Respondent to pay that sum.

Employment Judge Hutchinson

Date 8 January 2020

REASONS SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE