



EMPLOYMENT TRIBUNALS

Claimant: Miss Y Eniola
Respondent: Coast Care Limited
Heard at: Ashford
On: 21 November 2019
Before: Employment Judge Pritchard

Representation
Claimant: No appearance
Respondent: Ms Y Montaz, consultant

JUDGMENT

The Claimant's claim for holiday pay is dismissed

REASONS

- 1 The Claimant claims holiday pay. The Respondent resists the claim.
- 2 By email timed at 16.35 on 20 November 2019 the Claimant applied for a postponement of today's hearing because of "unforeseen consequences". That application was placed before me at approximately 9.30 a.m. shortly before the hearing was due to commence. The Claimant provided no explanation as to what the unforeseen consequences were or why the application was made at such a late stage. The application was refused. I was informed by my clerk that the Claimant said, upon being told of my decision, she was happy for the claim to proceed in her absence. The case proceeded in accordance with Rule 47.
- 3 I heard evidence under oath from Danielle Henderson, Registered Manager. I read the Claimant's witness statement and I was referred to a number of documents contained within a paginated bundle.
- 4 The Claimant's claim for unfair dismissal had been struck out. The remaining issue for determination was whether the Respondent failed to compensate/fully compensate the Claimant for accrued but untaken holiday upon the termination of her employment.

- 5 The Claimant was employed by the Respondent from 10 July 2018 until 18 March 2019 when she failed to attend work, the Respondent taking the view that she no longer wished to work for the Respondent. Whether or not that view is correct, that was the last day of the Claimant's employment.
- 6 Regulations 13 and 13A of the Working Time Regulations 1998, read together, provide for an annual leave entitlement of 5.6 weeks.
- 7 The Claimant's contract provided for 24 normal hours of work per week, Saturday to Friday. Her holiday entitlement was 134.4 hours in each leave year, 6 April to 5 April. This entitlement is calculated as follows:

$$24 \times 5.6 = 134.4$$

- 8 The Claimant did not take paid leave during her employment. Upon termination of her employment she had worked 36 weeks. The Respondent calculated the number of hours accrued holiday as follows:

$$\frac{134.4 \times 36}{52} = 93$$

- 9 I was shown a copy of the Claimant's wage slip dated 29 March 2019. It shows that the Claimant was paid 93 hours holiday pay at her hourly rate of £7.83 totalling £728.19.
- 10 The Respondent has fully and properly compensated the Claimant for accrued but untaken holiday upon termination of her employment and her claim is accordingly dismissed.

Employment Judge Pritchard

Date: 21 November 2019