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EMPLOYMENT TRIBUNALS

Claimant: 1) Miss C Hendy
2) Miss A Petty
3) Miss J Gregg

Respondent: Blakes Golf Club Limited

Heard at: East London Hearing Centre

On: Wednesday 15 January 2020

Before: Employment Judge Moor

Representation

Claimants: in person

Respondent: neither present nor represented

JUDGMENT

Preparation time orders are made against the Respondent in favour of all the Claimants. The Respondent is ordered to pay to

1. Miss Hendy the sum of £780;
2. Miss Petty the sum of £585; and
3. Miss Gregg the sum of £585.

REASONS

1. The Claimants made applications for Preparation Time Orders in this case at the hearing. The Respondent was given time to respond in writing by 14 February 2020. It has not done so. I have therefore reached my decision on the basis of the Claimant's representations on the day of the hearing.

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2. The Claimants brought wages, holiday pay, and in Miss Petty's case wrongful dismissal claims against the Respondent. They were successful in these claims.
3. The Respondent submitted response forms in all three claims denying the claims and making allegations against the Claimants. In Miss Hendy's case, they accused wrongly her of gross misconduct. In Miss Gregg's case they suggested wrongly she had taken the holiday claimed. In Miss Petty's case they denied she had held the position she claimed, alleged she was part time, and put a positive case as to why she left. These responses meant that the claims had to go to a full hearing to be determined. This meant that the Claimants had to prepare their evidence, photocopy the relevant documents. Miss Gregg and Miss Petty estimate that they spent 15 hours preparing their cases including the documents and for today. Miss Hendy spent a little longer because she took advice from Citizens Advice. She spent some long phone calls with ACAS.
4. The Tribunal Rules allow a preparation time order to be made in favour of a party where the other party has conducted the proceedings unreasonably and/or where the response had no reasonable prospect of success.
5. In my judgment, the Respondent conducted the proceedings unreasonably by putting in response forms that pleaded positive defences, thereby ensuring that a full hearing was required, but by failing to attend that hearing to put forward those defences. Had they not done so, the Claimants would have been able to secure default judgments, avoiding the need to take time to prepare for the full hearing.
6. I decided in my oral judgment that the Respondent's approach to the claims had been high-handed. If an enterprise receives the benefit of someone's work, then they must pay for it as agreed. In this case they had not done so. When then a claim is made for that pay, it must be dealt with. Again this did not happen. Miss Hendy had worked loyally at the club for many years and had left with no hard feelings. When she requested her final wages and holiday pay she was fobbed off and her telephone number blocked. Yet, no one denied that she was due final payments. When her mother asked Ian Leith, of the Respondent, when she would be paid his response was 'when I feel like it' and Miss Hendy's mother was told to 'fuck off'. This is wholly unacceptable behaviour by an employer. The Respondent failed to respond to the letter before action. That the Respondent went on to defend the claim when it had no defence was against that background therefore unreasonable conduct of the proceedings. In my oral decision I described the behaviour of the Respondent to Miss Hendy as high-handed. And its conduct of the proceedings had caused her unnecessary upset and stress. I found that on the facts that the Respondent had deliberately not paid wages it knew were owing. Its approach therefore to the response to the claims was unreasonable. Miss Petty likewise had been blanked by the Respondents about when she would be paid. Their response to her claim was

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inaccurate and wholly without merit. She showed me a rota showing her full time working: the Respondent cannot have believed she was part time and the response was therefore a wholly unreasonable conduct of the proceedings. Miss Gregg used an internal spreadsheet prepared by a manager to show the holiday she was owed. This was available to the Respondent and it was unreasonable for them therefore to deny her claim.

7. I therefore have considered whether to make Preparation Time Orders and exercise my discretion to do so. All three Claimants had to spend some time preparing for the hearing. They made phone calls, photocopied and collated documents, and prepared witness statements and calculations, and researched how to do so online. In those circumstances, I have considered the 15 hours suggested by Miss Gregg and Miss Petty is reasonable. I have added a further 5 hours to Miss Hendy's claim, and find it reasonable that she spent 20 hours, given that she took further time to obtain advice. A professional representative would have taken less time, but I bear in mind the Claimants had no experience and were doing all of this preparation from scratch.
8. I have heard that the Respondent is still in business employing a number of staff. They also secure the services of an accountant. It seems to me on this information that they are likely to have the funds to pay the Time Orders.
9. I therefore make orders as set out in my judgment, the relevant rate is £39 per hour. $15 \times 39 = £585$. $20 \times 39 = £780$.

Employment Judge Moor

Date 19 February 2020