



**EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 4103131/2019**

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**Held in Glasgow on 7 June 2019**

**Employment Judge: Claire McManus**

10 **Ms Lynne Sloan**

**Claimant  
In Person**

**Greenleaf Hygiene Solutions (Scotland) Ltd**

**Respondent  
Represented By  
Mr John O'Donnell  
Director**

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**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

20 The Judgment of the Tribunal is that:-

• The respondent has made an unauthorised deduction from wages contrary to Section 13 of the Employment Rights Act 1996 in terms of unpaid wages and the respondent is ordered to pay to the claimant the sum of £265.10 (TWO HUNDRED AND SIXTY FIVE POUNDS AND TEN PENCE) in respect of such unpaid amount.

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• The respondent shall be at liberty to deduct from the above sums prior to making payment to the claimant such amounts of Income Tax and Employee National Insurance Contributions (if any) as it may be required by law to deduct from a payment of earnings of that amount made to the claimant, and if it does so, duly remits such sums so deducted to Her Majesty's Revenue and Customs, and provides to the claimant written evidence of the fact and amount of such deductions and of the sums deducted having been remitted to HMRC, payment of the balance to the claimant shall satisfy the requirements of this Judgment.

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**E.T. Z4 (WR)**

## REASONS

### Introduction

1. The claimant's claim is for unpaid wages. Notice of Claim and Notice of Final Hearing on 7 June 2019 was issued on 29 March 2019. The case was initially  
5 scheduled to take place at the commencement at 11:30 AM on that day. On 18 April correspondence was sent from John O'Donnell contracts manager at Greenleaf hygiene solutions in Scotland Ltd, informing that '*the company will be defending the action*' and indicating that more than the hour allocated for the case would be necessary, due to the documentation involved. The  
10 respondent was named in the ET1 form as John O'Donnell. The ET3 response form was submitted on behalf of Greenleaf Hygiene Solutions (Scotland) Ltd on 25 April 2019. On submission of that ET3 response, it was indicated that it would take up to a day for all documents to be reviewed. That response was accepted. The respondent's representative was stated in that  
15 ET3 to be Margaret Gribbon of Bridge Litigation UK Ltd.
2. On 1 May 2019, the claimant sent an email to the Employment Tribunal office, copied to the respondent and to the respondent's representative, with some attached documentation. In that email, the claimant objected to the duration of the hearing being extended. On 2 May 2019, the respondent's  
20 representative sent an email to the Tribunal office, copied to the claimant informing that they were '*content to treat the additional information contained in the claimant's email (so far as it is relevant to the legal claims pled) as further particulars.*' In that email. It was there stated regarding the duration of the hearing: '*..we are of the very firm view that this is not a case suitable  
25 for the fast track and that one day is a reasonable assessment of the likely duration of the hearing, given the amount of categories of sums the claimant claims are owed to her.* The claimant was asked to confirm whether or not she was legally represented.
3. On 7 May, the claimant wrote to the Employment Tribunal office in respect of  
30 correspondence received from the respondent's representative, with attached, illegible, scanned documents. In reply, the Employment Tribunal

office wrote to the claimant (copied to the respondent's representative) reminding the claimant of her obligations in terms of Rule 92 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013 (('The Procedure Rules') and directed that the claimant should provide  
5 the Employment Tribunal with a legible copy of her correspondence to enable it to be considered by an Employment Judge.

4. On 14 May 2019, an amended Notice of Final Hearing was sent to the parties, informing that the start time had been changed to 10 AM on 7 June 2019, and the duration had been increased to 3 hours.

10 5. On 14 May 2019 (by email of 17:14), the claimant sent legible copies of the correspondence previously forwarded to the Employment Tribunal, and complying with Rule 92. On 14 May 2019 (by email of 17:51), the respondent's representative responded to that communication from the claimant. In that response (which complied with Rule 92) . It was the  
15 respondent's representative's position that the correspondence forwarded by the claimant related to a matter in which the respondent had engaged separate legal representatives, and was a separate matter involving the claimant, which is unrelated to the ongoing proceedings before the Employment Tribunal.

20 6. On 23 May 2019, parties' emails of 14 May were replied to by email from the Employment Tribunal office to the claimant and the respondent's representative. It was stated that the Tribunal cannot offer advice, and that if it is claimant's position that the correspondence which she had forwarded to the Employment Tribunal refers to her Employment Tribunal claim, she should  
25 state that, and explain why this is her view. The claimant was informed that any correspondence to the Employment Tribunal requires to be copied to Ms Gribben, as solicitor for the respondent.

7. On 26 May, the respondent's representative sent to the Employment Tribunal  
30 (copied to the claimant), the respondent's response to the claimant's amended ET1 (as detailed in the claimant's email to the Employment Tribunal office dated 1 May 2019).

8. The Tribunal was copied into correspondence between parties of 4 June in relation to preparation of the documents for use at the Employment Tribunal hearing. It was the claimant's position that she had her *'own productions'* made up, so did *'not require a joint bundle'*.
- 5 9. On 6 June, the Employment Tribunal office was notified by email from the respondent's representative (copied to the claimant) that, although they should remain listed as the respondent's representative, to save expenses, one of the respondent's Directors (Mr John O'Donnell) would represent the respondent at the hearing on 7 June.
- 10 10. No Orders had been requested by either party or had been issued by the Tribunal in this case. At the hearing on 7 June, the claimant appeared in person, and the respondent was represented by Mr John O'Donnell. Each party had their own bundle of productions, although there was some duplication between them. There was considerable delay on the morning of the hearing while the productions were ordered and paginated. The respondent relied upon a Bundle including documents numbered 1 to 24, with page numbers 1 – 111. The claimant relied upon a similar number of documents, paginated in sections 1 - 11, with various page numbers within each section. The numbers in brackets in this Judgment preceded by a 'C' refer to document at that page number in the claimant's bundle. The numbers in brackets in this Judgment preceded by a 'R' refer to documents at that page number in the respondent's bundle.
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11. The Hearing did not conclude in the 3 hours allocated, and on the agreement of both parties, continued after lunch on 7 June 2019.
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12. Evidence was heard from the claimant and, for the respondent, from Mr John O'Donnell (Director) and from Lorna Dougall (Sales Manager). All evidence was taken on oath or affirmation.

### Issues for Determination

- 30 13. I required to determine whether the claimant is properly due outstanding payments from the respondent in respect of her employment with them. The

sums sought are set out in the claimant's email of 1 May 2019 (which has been accepted as an amendment to the ET1) and are in respect of

- Salary
- SSP
- 5       • Accrued but untaken holidays
- Commission
- Bonus
- Car hire
- Legal expenses

10   14.   The respondent denies that payments are due to the claimant from them, for the reasons set out in their ET3 and in the further particulars of 26 May 2019.

#### **Relevant Law**

15   15.   I dealt with this case in terms of the Tribunal's overriding objective as set out in Rule 2 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ('The Procedure Rules'), being:-

*"The overriding objective of these Rules is to enable Employment Tribunals to deal with cases fairly and justly.*

*Dealing with a case fairly and justly includes, so far as practicable -*

- (a)   *ensuring that the parties are on an equal footing;*
- 20   (b)   *dealing with cases in ways which are proportionate to the complexity and importance of the issues;*
- (c)   *avoiding unnecessary formality and seeking flexibility in the proceedings;*
- (d)   *avoiding delay, so far as compatible with proper consideration*  
25       *of the issues; and*
- (e)   *saving expense.*

*A Tribunal shall seek to give effect to the overriding objective in interpreting, or exercising any power given to it by, these Rules. The parties and their representatives shall assist the Tribunal to further the overriding objective and in particular shall co-operate generally with each other and with the Tribunal.”*

- 5 16. The Employment Rights Act 1996 (‘the ERA’) at section 13 provides for the right of an employee not to suffer unauthorised deductions from wages. Section 14 sets out the provisions in respect of excepted deductions and section 16 sets out the provisions in respect of excepted payments. Section 13(3) states:

10 *‘Where the total amount of wages paid on any occasion by an employer to a worker employed by him is less than the total amount of the wages properly payable by him to the worker on that occasion (after deductions), the amount of the deficiency shall be treated for the purposes of this Part as a deduction made by the employer from the*

15 *worker’s wages on that occasion.’*

17. Section 27 sets out provisions with regard to meaning of wages, including at section 27(1)(a) ‘any fee, bonus, commission, holiday pay or other emolument referable to his employment, whether payable under his contract or otherwise.’ Statutory Sick Pay (SSP) is included by section 27(1)(b).

- 20 18. Statutory Sick Pay is payable for ‘qualifying days’, as defined in Regulation 5(2) of the Statutory Sick Pay Regulations. SSP is not payable for the first three qualifying days in any period of entitlement (Social Security Contributions and Benefits Act 1992, section 155).

## 25 **Findings in Fact**

19. The following material facts were found by the Tribunal to be proven.

20. The respondent is a washroom services business, providing products to various customer’s premises. The respondent has approximately 24 employees. The claimant was employed by the respondent from March 2011
- 30 until 4 January 2019. Her position with the respondent was Account Manager.

Her duties included securing contracts on behalf of the respondent with third party customers for the provision of washroom services.

21. The written terms of the claimant's employment with the respondent are set out in the contract of employment between the parties, dated 19 May 2011 (at R76 – R84). That contract is signed by both parties (at R84). Clause 2(c) contains the following statement:-

*“The Company is hereby authorised by the Employee to properly deduct from any final payments to be made to the Employee upon termination of his employment any cash advances, expenses, loans or other similar indebtedness owed to the Company.”*

22. That contract of employment includes provisions at clause 3 in respect of holidays (R77). It sets out that the claimant was entitled to (i) 'statutory and bank holidays in force in the territory of employment and customarily recognised by the company'. (ii) annual holidays, according to the scale set out therein.

23. On 5 December 2018, the claimant resigned from her employment with the respondent. In her resignation letter (C3.1) the claimant gave one month's notice of the termination of her employment with the respondent. The effective date of termination of the claimant's contract of employment with the respondent was 4 January 2019. On her resignation, it was indicated to the claimant by the respondent's Account Sales Manager, Lorna Dougal that the claimant would be placed on garden leave for her notice period. That position changed, and on the same day, the claimant was told that she was suspended pending investigation. That position was then confirmed to the claimant by letter. That suspension was on full pay.

24. Arrangements were made for the claimant to attend a meeting on 12 December 2018 in respect of the investigations which the respondent was conducting. The claimant did not attend that meeting. The claimant advised the respondent that she was unfit to attend. The claimant was certified by her GP as being unfit for work from 13 December 2018 until 8 January 2019 (Med

3 form at C3.2). The certified reason for that absence is stated in the med three form (C3.2) as '*work related stress*'.

25. The document at page 27 of the respondent's bundle (R27), accurately sets out the respondent's position in respect of the claimant's attendance at work for the respondent in the period from 3 December 2018 to 4 January 2019, and accurately sets out the payments made to the claimant by the respondent in respect of that period, and the basis on which those payments were made by the respondent. This is summarised as follows:-

	<b>Date</b>	<b>Attendance</b>	<b>Payment</b>
10	3 Dec	Absent- Uncertified ill health	NIL
	4 Dec	Absent- Uncertified ill health	NIL
	5 Dec	Worked	£95.73
	6 Dec	Suspended	£95.73
	7 Dec	Suspended	£95.73
15	WEEKEND		
	10 Dec	Suspended	£95.73
	11 Dec	Suspended	£95.73
	12 Dec	Suspended & Uncertified Ill health	NIL
	13 Dec	Suspended & Certified Ill health	NIL
20	14 Dec	Suspended & Certified Ill health	NIL
	WEEKEND		
	17 Dec	Suspended & Certified Ill health	NIL
	18 Dec	Suspended & Certified Ill health	£18.41 SSP
	19 Dec	Suspended & Certified Ill health	£18.41 SSP
25	20 Dec	Suspended & Certified Ill health	£18.41 SSP
	21 Dec	Suspended & Certified Ill health	£18.41 SSP
	WEEKEND		
	24 Dec	Suspended & Certified Ill health	£18.41 SSP
	25 Dec	Holiday	£95.73
30	26 Dec	Holiday	£95.73
	27 Dec	Holiday	£95.73
	28 Dec	Holiday	£95.73
	WEEKEND		
	31 Dec	Holiday	£95.73
35	1 Jan	Suspended & Certified Ill health	£18.41 SSP
	2 Jan	Suspended & Certified Ill health	£18.41 SSP
	3 Jan	Suspended & Certified Ill health	£18.41 SSP
	4 Jan	Suspended & Certified Ill health	£18.41 SSP



26. The claimant was absent from work due to ill health on the dates as recorded above. The claimant has received payment from the respondent of the sums set out above. The SSP payments paid to the claimant in respect of this period were paid on the basis of the respondent's understanding that for the first five days of the claimant's absence from work due to ill-health in this period, whether certified or uncertified claimant, the claimant would not be entitled to any payment of SSP.

27. There are recognised Bank Holidays in Scotland on 25 and 26 December and on 1 and 2 January. These bank holidays are recognised in the contract of employment at clause 8 (R83). In Scotland Bank Holidays do not fall on 27, 28 or 31 December. The contract of employment provides at clause 3 as follows (R77):-

*"Termination of employment before the end of any calendar year shall entitle the company to recover from any remuneration owing or otherwise to recover from the employee the amount of remuneration relative to any period of holiday taken in excess of the entitlement for that year.*

*If notice is served terminating employment, the employee must take any holiday entitlement during the period of notice, unless otherwise requested by his manager. Any outstanding holiday entitlement shall be deemed included to the extent of any notice period for which salary may be paid in lieu."*

28. The claimant had accrued 5 days holiday to her termination date. The claimant is also entitled to bank holidays. Payment of holidays to the claimant was at the gross daily rate of £95.73.

29. The car which was provided to the claimant by the respondent in respect of her employment was removed from the hands of the claimant prior to the end of her contract of employment with them. The claimant incurred expense of £255.98 in respect of the hire of an alternative car (a Ford Fiesta) from 22 December 2018 until 4 January 2019 (C6.6). The contract of employment provides at clause 5(ii) (R79) as follows:-

*“Upon termination of his employment hereunder for whatsoever reason, the employee shall immediately deliver up to the company upon the date of termination with company’s vehicles which may be in his possession or under his control, and the employee hereby agrees that he shall have no right whatsoever to claim from the company any compensation or redress for any alleged or actual loss of private use of such vehicle arising or likely to arise following such return.”*

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30. In February 2019, a wage slip was issued by the respondent to the claimant (C9.4) dated 28 February in respect of basic pay and SSP and setting out deductions made in respect of Income Tax, National Insurance, pensions, expenses, ‘Absent’, ‘Overpayment’ and ‘Statutory Pay Paid’. That wage slip set out the net pay to the claimant as being £94.47. The claimant received payment of £94.47 from the respondent at that time.

31. There is another wage slip issued by the respondent in respect of payments to the claimant which also purports to be in respect of the February pay period (at C9.2 and at R109). That wage slip sets out details of payments made to the claimant in respect of basic pay, commission, salary and SSP and setting out deductions made in respect of Income Tax, National Insurance, pensions, expenses, ‘absent’ and ‘overpayment’. That wage slip sets out the net pay to the claimant as being £388.43. On 25 April 2019, the claimant received a cheque from the respondent in the sum of £293.96 (C9.3). That payment represented the balance due between what was set out in the wage slip at C9.2 and that at C9.3.

32. The claimant’s wage slips at C9.5 and C9.7 show that in October and November 2018 the claimant received a gross payment in respect of bonus of £613.67. During the course of her employment with the respondent, the claimant normally received a gross monthly payment of £613.67 in respect of bonus. The claimant did not receive any bonus payment in respect of her employment with the respondent during December 2018 or January 2019.

33. During the course of her employment with the claimant, payments were made to the claimant taking into account commission. The system operated by the

respondent is that 'commission' was calculated on contracts entered into on behalf of the respondent with third parties by the claimant (and other employees). Deductions were made to the commission calculated as being payable, dependent on certain factors. Those factors include the premises where services are provided by the respondent to a particular customer. Commission is paid by the respondent to the employee who is responsible for entering into a contract with a new customer for provision of services in a particular premises. In circumstances where a premises, e.g., a bar or restaurant is operated by one customer who enters into a contract for provision of services by the respondent, and where that operation then closes down, and a contract is entered into with the respondent by a new customer operating out of those same premises, that is not considered to be a new contract, and no commission is paid. That is because it is considered that there is no 'additional value' to the respondent. Those were the circumstances in respect of the claimant's engagement on behalf of the respondent to provide services in premises operated by Onion and Sugar Ltd. Those services were largely the same services which had been delivered by the respondent to those premises, when the premises had been operated by a different company, under a different restaurant name. The factors which affect 'commission' also includes the length of the contract. The commission payable to the claimant as an employee of the respondent was a percentage (e.g.) 12.5% of the total commission on the contract. The commission rules are set out at R42 – 43 (which also includes provisions re bonus payments).

34. On 24 January 2019, John O'Donnell (Contracts Manager) wrote to the claimant with the respondent's position in respect of the calculation of deductions to be applied to payments due to the claimant, in respect of what the respondent termed 'commission'(C8.2). The claimant was asked to *'check and confirm all ok'*.

35. The document at R 45 – R46 (which is also at C8.15 – C8.16) accurately sets out the correct calculation of what is deducted because of what the respondent refers to as 'commission'. The claimant is not due any sums from the respondent in respect of what is referred to as 'commission'.

36. The respondent operates a retention bonus system relating to the re-signing of new owners and re-signing of existing contracts. The contract of employment provides at clause (1)(a)(c)(iii):-

5 *“Any commission bonus or incentive payments as set out in the letter dated 23/03/11 shall be made to the employee, subject to the rates and conditions as varied by the company in its discretion and advised in writing to the employee from time to time.”*

- 10 37. This payment of this bonus is on the basis set out in the email to the claimant and other employees of 13 September 2018 (R40) and is covered in the statement of the commission rules set out at R42 – R45. This includes the following (at R43):-

15 *“This may be adjusted as per the staff handbook 2018 if a member of the sales team is not at work due to illness or leave of absence sales closed while a member of the sales team is off due to illness or leave of absence, then commission may be adjusted dependent on what further work is required by other members of the sales team during this period to close the sale. This will be looked at on an individual basis.”*

- 20 38. Adjustments were made to the bonus payable to the claimant because the claimant was absent from work in December and January 20 December 2018. In January 2019. Similar deductions were previously applied by the respondent to bonus normally payable to Lorna Dougal.

### **Observations on the Evidence**

- 25 39. There was clearly tension between the claimant and John O'Donnell. This case was not completed within the allocated three hours. Both parties agreed to continue the case after lunch on 7 June 2019. Immediately prior to the lunch break, I stated to both parties that it seemed to me that there may be a number of matters which were not in dispute, and I asked the parties to seek  
30 to agree matters which were not in dispute, and to inform me of their position in respect of that after the lunch break. On the continuation of the hearing

after the lunch break, I was informed that no agreement on any matter had been reached.

40. There was a lack of clarity from the claimant as to exactly what sums she was seeking as sums which ought to have been paid to her. The claimant was not straight forward in her responses to questions put to her. The claimant's position in respect of what the respondent termed 'commission', as had been set out to the claimant by the respondent in their correspondence to her of 24 January 2019 (at C8.2) was '*I didn't state these as minuses in my working out as I was confused what these deductions were.*' Some confusion was understandable to me, as the system operated by the respondent in respect of what is called 'commission' did not appear to me to be straightforward, particularly as it was a calculation in respect of deductions. The claimant's evidence was that she accepted that there should be '*some deductions*' to the sums sought by her before the Tribunal, but that there were a '*couple of issues*' in the final draft of what was the respondent's position. That final draft referred to by the claimant is at C8.15 – C8.16 and also at R 45 – R46. The claimant disputed that there should be no commission due to her in circumstances where there had been an uplift of equipment provided by the respondent, and a new customer operated out of the premises where services were provided by the respondent. The claimant did make some concessions during cross examination.

41. In respect of bonus, the claimant's position was that her bonus was calculated on an annual basis, in accordance with the previous year's work, and was a fixed monthly payment of £613.67. It was the claimant's position that she had received a payment in that amount in respect of bonus monthly, as detailed in her payslips up to December 2018, but had not received a bonus payment in respect of December 2018 or January 2019.

42. I found John O'Donnell to be credible and reliable in his evidence before me, which was consistent with the documentary evidence.

43. I found Lorna Dougal to be an entirely credible and reliable witness. She was straightforward in her responses and did not seek to avoid answering

questions. I entirely accepted her position in respect of the calculation of bonus and commission and that she had been affected by a reduction in bonus payments by the respondent when absent due to ill health.

### Submissions

5 44. It was the claimant's position in submissions that she had been suspended on full pay and ought to have received full pay during the entire period up to her termination date. It was the claimant's position in submissions that she 'still believed' she was due bonus. The claimant's position was that she considered it to be unfair for the respondent to withdraw bonus payment  
10 because she was absent from work due to ill health.

45. In his submissions, the respondent's representative relied upon what had been paid to the claimant as set out in the documentary evidence. He relied on the evidence before the Tribunal in respect of how the respondent operates its bonus and commission payments. It was submitted that the respondent  
15 has paid all sums due to the claimant. It was submitted that due wage. The claimant was absent from work due to ill health. She was not entitled to full pay although she had been suspended on full pay. He submitted that if it is now the claimant's position that she ought to have been paid full pay during the entire period of her suspension, then that had not been argued previously.  
20 His submission was that he had '*not had the opportunity to argue that point*'.

### Decision

46. The respondent's understanding that SSP is not payable for the first 5 days of absence is not in line with the provisions of the Social Security Contributions and Benefits Act 1992, section 155, which are that SSP is not  
25 payable for the first three qualifying days in any period of entitlement. The claimant is due wages in respect of SSP for absences on 13 and 14 December 2018. The claimant is due the gross sum of (2 x £18.41) £36.82 in this respect. The claimant's sickness absence supersedes the claimant's entitlement to full pay while suspended pending investigation.

47. On the basis of my assessment of the evidence on the applicable standard of proof (the balance of probabilities), and on my assessment of the respondent's witnesses as being more credible than the claimant, I accepted the respondent's witnesses' evidence on the contractual position in respect of payment of bonus and commission. The claimant is not due any sums from the respondent in those respects.
48. Sums incurred by the claimant in respect of car hire and legal expenses are not 'wages' within the meaning of section 13 of the Employment Rights Act 1996.
49. The claimant has received payment for her 5 days accrued but untaken holidays. The entitlement to statutory (bank) holidays, which are on fixed dates, is separate to the claimant's accrued holiday entitlement. The respondent's calculations at R27 do not take into account that there were bank holidays on 25 and 26 December and 1 and 2 January.
50. Following *Kinsman and anor v Drumconnerr Ltd and others* ET case number 1401769/16, as referred to in IDS Handbook on Working Time (Volume 15), Chapter 4 (Annual leave) at section 4.259 (Disciplinary Suspension), suspension, like sickness absence is a form of enforced absence from work. The terms of the contract of employment at clause 3 (R77) are taken into consideration. There was no evidence before me of any agreement with the claimant that she take her accrued holidays during the period of suspension. That suspension continued until the date of termination of employment. The notification that the claimant would receive full pay during that period of suspension was superseded by the claimant being unfit for work, and so being only entitled to sick pay during the remaining period of suspension.
51. In these circumstances, when the claimant was suspended and unfit for work in part of her period of notice before the termination date of 4 January 2019, the respondent ought not to have deemed the claimant to have taken her accrued 5 days holiday during that period. The claimant was entitled to be paid in respect of the 4 days fixed bank holidays in that period (25 and 26 December and 1 and 2 January). The claimant was paid for 5 days holiday

during her notice period. She ought to have been paid for the 4 days bank holiday and receive payment on termination of her 5 days accrued but untaken holidays.

52. The claimant ought to have received payment of SSP in respect of her absences on 13, 14 & 17 December 2018 ( $3 \times £18.41 = £55.23$ ). The claimant was paid holiday pay in respect of the bank holidays on 25 and 26 December 2018 ( $2 \times £95.73 = £191.46$ ). The claimant ought to have received payment of SSP in respect of her absences on 27, 28 and 31 December 2018 ( $3 \times £18.41 = £55.23$ ). The claimant instead received payment for holidays on those days ( $3 \times £95.73 = £287.19$ ). That was in effect an overpayment to the claimant in respect of those days of ( $£287.19 - 95.73$ ) £191.46. The claimant ought to have received holiday pay in respect of bank holidays on 1 and 2 January 2019 ( $2 \times £95.73 = £191.46$ ). The claimant instead received payment of SSP for those days ( $2 \times £18.41 = £36.82$ ). On termination of employment the claimant ought to have received payment in respect of 5 days accrued but untaken holidays calculated at the gross daily rate of £95.73 ( $5 \times £95.73 = £478.65$ ) (separate to her entitlement to bank holidays).
53. In respect of these particular days, the claimant then ought to have been paid the gross sum of ( $£55.23 + £55.23 + £191.46 + £478.65$ ) £780.57. Account requires to be taken of sums paid to the claimant for these days ( $£191.46 + £287.19 + £36.82$ ) £515.47.
54. Taking all these payments due and payments made for these days into account, the balance due to the claimant in respect of unpaid wages is ( $£780.57 - £515.47$ ) £265.10. There may be deductions which require to be applied to that sum in respect of tax and National Insurance.

Employment Judge:

Claire McManus

Date of Judgement:

27 June 2019

30 Entered in Register,

Copied to Parties:

01 July 2019



