



# EMPLOYMENT TRIBUNALS

**BETWEEN**

**Claimant  
MS S NOUN**

**AND**

**Respondent  
SO THAI KITCHEN LTD**

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

**HELD AT: BRISTOL      ON:    10<sup>TH</sup> JULY 2020**

**EMPLOYMENT JUDGE MR P CADNEY  
(SITTING ALONE)**

**MEMBERS:**

**APPEARANCES:-**

**FOR THE CLAIMANT:-      MR W GARBER**

**FOR THE RESPONDENT:-    MR J MARTIN**

### **JUDGMENT**

The judgment of the tribunal is that: -

1. The respondent is ordered to pay the claimant unpaid notice pay in the sum of £209.04.
2. The respondent is ordered to pay the claimant unpaid holiday pay in the sum of £360.19.
3. Total: £569.23

## Reasons

1. This was a case heard via CVP video conference to which the parties have consented.
2. By this claim the claimant brings claims unpaid notice pay and unpaid holiday pay. In addition, in the claim form the claimant sought compensation for the loss of earnings between her dismissal and finding new employment. I explained that neither of the claims set out above would permit the tribunal to award loss of earnings, and that the claimant could not bring a claim for unfair dismissal (which would allow such an award) as she had less than two years continuous service.
3. Notice Pay – It is not in dispute, as set out in the response, that the claimant was entitled to one week's notice, nor that she was dismissed without notice or notice pay and that, therefore, in principle the claim is made out. On the face of the pleadings, however, there is a dispute as to the amount. The claimant has calculated using her payslips that she did twenty-four hours per week on average and has used that as the basis of the notice pay figure. In its response the respondent has asserted a figure of twenty hours although the basis of that figure is not clear. However, Mr Martin informs me that the claimant had no set contractual hours, which would ordinarily be the basis of any notice pay. In those circumstances in my judgement the correct sum can only be calculated using the average of the hours worked. Accordingly, in my judgement the claimant is in principle correct and I accept her calculation is accurate. She is therefore awarded the sum of £209.04 (24 x £8.71).
4. Holiday Pay – Once again there is no dispute that holiday pay is owed although the amount is in dispute. In her claim form the claimant claimed four weeks unpaid holiday pay. In its response the respondent accepted liability in principle but did not identify the amount owed. It is not now in dispute that the respondent shut down each August and that the claimant was paid for that period. The claimant explained that she thought that that represented the holiday pay owed for the previous holiday year 2018/19, and that she had been paid nothing for 2019/20. Mr Martin explained that in fact the payment represented all of holiday pay owed up to that point. In the end the parties agreed that the claimant was owed untaken holiday for the period 1<sup>st</sup> September 2019 until 23<sup>rd</sup> December 2019, and that they were happy for me to calculate the amount owed. Accordingly, the claimant is awarded £360.19 in unpaid holiday pay (5.6 x £209.04 x 16/52).

**EMPLOYMENT JUDGE CADNEY**

Dated: 13 July 2020

Judgment sent to parties: 21 July 2020

FOR THE TRIBUNAL OFFICE