



# EMPLOYMENT TRIBUNALS

## Claimant

Miss Orietta di Quinzio

v

## Respondent

Marsh Bears Nursery

**Heard at:** Watford by CVP

**On:** 12 August 2020

**Before:** Employment Judge Alliott

## Appearances

**For the Claimant:** In Person

**For the Respondent:** Ms Yve Montaz (Consultant)

## JUDGMENT

1. The judgment of the tribunal is that:
  - 1.1. The claimant's claim for unauthorised deduction of wages is well founded and the respondent is ordered to pay her the gross sum of £918.76 (subject to relevant tax and National Insurance).
  - 1.2. The respondent has failed to pay the claimant's holiday entitlement and is ordered to pay her the gross sum of £43.45 (subject to relevant tax and National Insurance).
  - 1.3. The respondent's contract claim is dismissed.

## REASONS

1. The parties agree that the claimant earned £3,387.90 gross between 25 March and 18 July 2019. The parties agree she was paid £2,783.55 net between those dates. The difference is £604.35. The respondent paid the claimant the sum of £566.11 gross for underpayment of wages in August 2019. £604.35 - £566.11 = £38.24. I find that the respondent made unauthorised deduction of wages in the sum of £38.24 gross.
2. The claimant's contract of employment provided that she worked 5 days a week, 35.75 hours per week at a rate of £8.21 per hour. The school holidays began on 18 July 2019. There is nothing in the claimant's contract

of employment that states she was not entitled to be paid in the school holidays or that her term time earnings should be amortised and paid over the holidays. I find that she was entitled to be paid during the school holidays.

3. The respondent claimed that the claimant has resigned with effect 18 July 2019. Ms Malik's statement did not appear to substantiate this. The claimant disputed it. I am not prepared to accept Mrs Malik's statement.
4. The claimant spoke to Ms Malik on 29 July 2019 to say she had been offered another job. In an email dated 5 August 2019 she resigned to say she was due to start a new job on 19 August 2019 and stated her last day would be 16 August 2019. However, in her claim form she states she started a new job on 12 August 2019. The claimant tells me this was an error but I am not prepared to accept this and will rely on her pleaded case. I find she is entitled to 3 weeks pay.  $35.75 \times 3 \times \pounds 8.21 = \pounds 880.52$ . I find that unauthorised deductions from the claimant's pay in this sum have been made.
5. Holiday pay: The claimant calculates that she is due  $\pounds 632.17$  based on 20 weeks employment. The respondent's figure is  $\pounds 557.11$  based on 16 weeks employment. I have found 19 weeks employment.  $28 \times 7.15 \text{ per day} \div 52 \times 19 \times \pounds 8.21 = \pounds 600.56$ .  $\pounds 600.56 - \pounds 557.11 = \pounds 43.45$ .

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Employment Judge Alliott

Date: ...28 August 20

Sent to the parties on: 16 September 20

For the Tribunal Office