



**EMPLOYMENT TRIBUNALS (SCOTLAND)**

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**Case No: S/4103459/18**

**Held at Aberdeen on 19 June 2018**

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**Employment Judge: Mr N M Hosie (sitting alone)**

Mr J Cordiner

Claimant  
In Person

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Shawfern Limited t/a Dowans Hotel

Respondent  
Represented by:  
Mr M Murray -  
Director

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**JUDGMENT OF THE TRIBUNAL**

The Judgment of the Tribunal is that the claim is dismissed.

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**REASONS**

1. The claimant, James Cordiner, alleged that he was due accrued holiday pay from the respondent of £73.39. The claim was denied in its entirety.

2. In all the circumstances and having regard to the “overriding objective” in the Rules of Procedure, it was agreed that I should proceed to determine the issue on the basis of written submissions.
- 5 3. Having considered the parties’ submissions, I am persuaded, on balance, that the claimant was employed on a part-time, rather than a “casual” basis as he alleged. He was employed as a barman working in the evenings. While the respondent was able to offer additional shifts on occasions, that is normal in that line of work. He raised no complaints about his work pattern  
10 at the time. There was a consistency in the days and the total hours he worked each week; there was nothing to suggest he could refuse work offered.
4. The claimant accepted that “Schedule 1A”, annexed to the respondent’s  
15 Response, which detailed the hours and days which he worked, was accurate. The claimant was paid on the basis of the information in that Schedule, which averaged the days he worked. I was satisfied that that calculation was in accordance with the Working Time Regs 1998.
- 20 5. In short, I was satisfied that the submissions on behalf of the respondent were well-founded and were to be preferred. These submissions were detailed and comprehensive.
6. I was satisfied, therefore, that he received his holiday pay in full.  
25 Accordingly, that complaint is dismissed.
7. Although the respondent accepted that the claimant had not been provided with a written statement of his terms and conditions of employment, as he should have been within two months of starting, no award can be made for  
30 this failure in terms of s.38 of the Employment Act 2002, as his other complaint for unpaid holiday pay failed. However, the respondent should bear in mind his legal obligation in this regard, for had he complied, the

contractual position between the parties would have been clear and, in all likelihood, these proceedings would have been unnecessary.

8. Finally, I wish to record my concern at the claimant, a University graduate I understand, making a number of allegations of a personal nature in his claim form and submissions. These were irrelevant to his claim, but he persisted. He seemed to think that the tribunal proceedings afforded him the opportunity of airing a variety of alleged concerns, not only on his own behalf, but on behalf of others. Understandably, the respondent felt he had to respond. He strenuously denied the allegations and this meant that the submissions were unnecessarily lengthy.

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**Employment Judge Hosie**

**Dated: 21<sup>st</sup> June 2018**

20 **Date sent to parties: 21<sup>st</sup> June 2018**