



EMPLOYMENT TRIBUNALS

Claimant: Mrs G Sakaliniene

Respondent: Collette Ann Howarth

Heard at: Leeds **On:** 19th October 2020

Before: Employment Judge Buckley

Appearance:

For the Claimant: no attendance

For the Respondent: no attendance

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

1. Collette Ann Howarth is substituted as respondent.
2. The claim of unlawful deductions (holiday pay) is DISMISSED.
3. The claimant of unlawful deductions (unpaid wages) SUCCEEDS. The respondent will pay the claimant the sum of £900.

REASONS

1. The claim was originally issued against 'Karen's Bistro' but it is clear from documentation provided by the claimant that her employer was Collette Ann Howarth. The claim was reserved on Ms Howarth by letter dated 12 June 2020.
2. No response has been filed. No application has been made in accordance with rule 20 to extend time to file the response.

3. Neither party attended the hearing. The clerk made attempts to contact the claimant by telephone but was unsuccessful. I decided that it was in the interests of justice and in accordance with the overriding objective to proceed in the absence of the parties.
4. The claimant claims £356 for 21 days unpaid holiday pay from 2018-2020 and £900 for 106 hours unpaid overtime from 2018-2020. She has filed a number of documents in support of her claim which I took into account.
5. The claimant's normal working hours were 16 hours per week and she has provided wage slips showing that her normal fortnightly wage was £288. This gives an hourly wage of £9 an hour.
6. The claimant worked for the respondent from 20 January 2015 to 21 January 2020 as a coffee shop assistant.
7. The claimant claims £900 for overtime. I assume that the '106' hours is a typo, and that it should be 100 hours overtime given that her hourly wage was £9. I accept, in the absence of any response from the respondent, that the claimant worked and was not paid for overtime of 100 hours and I find, in the absence of any information to the contrary, that it is likely that this took place over a series of deductions and would therefore not be out of time. I therefore award £900 for unlawful deductions (unpaid overtime).
8. In relation to holiday pay, it is not possible for me to determine how much holiday pay is owed. The claimant states that she is entitled to 21 days which she calculates at £356. This amounts to a claim of £16.95 per day. At £9 per hour this would be 1.8 hours work per day. It is unclear how this relates the claimant's normal working hours of 16 hours per week. I do not know how many hours the claimant works per day and it is therefore impossible for me to calculate a daily rate of pay. I therefore dismiss the claim for holiday pay.

Employment Judge **Buckley**

Date: 19 October 2020