



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Respondent

Mr Gary Winlow

AND

Alba Travel Limited

JUDGMENT OF THE TRIBUNAL

Heard at: Manchester (by CVP)

On: 18 June 2021

Before: Employment Judge A M Buchanan (sitting alone)

Appearances

For the Claimant: No attendance

For the Respondent: Mr P Pickthall – Consultant (retired)

JUDGMENT

It is the judgment of the Tribunal that:

1. The name of the respondent is amended to Alba Travel Limited.
2. The claim in respect of unpaid holiday pay is not well-founded and is dismissed.

NOTES

1. The claimant did not attend the hearing and did not make any application for an adjournment of the hearing or give any explanation for his non-attendance. I directed my clerk to telephone the claimant on the number provided but there was no response.

2. In the circumstances I decided to proceed with the hearing pursuant to Rule 47 of Schedule I to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013. I took full account of the claim form and all other information provided by the claimant held on the Tribunal file.

3. The claimant had withdrawn any claim for holiday pay save in respect of 6 days in December 2020 which he claimed the respondent had required him to take during his

notice period in contravention of the required notice provisions contained in Regulation 15 of the Working Time Regulations 1998 (“the 1998 Regulations”).

4. I heard evidence from Barbara Holmes who is a director of the respondent company. I was satisfied that in the claimant’s contract of employment, signed by him on 9 April 2019, there is a provision allowing the respondent to direct the claimant to take holiday in his notice period and that the respondent had made that requirement in a letter to the claimant of 14 December 2020. I noted Regulation 15(5) of the 1998 Regulations provides that the rights and obligations set out in Regulation 15(1)-(4) of the 1998 Regulations can be varied or excluded by a relevant agreement. I was satisfied that the claimant’s contract of employment was a relevant agreement for those purposes and that the respondent had correctly required the claimant to take the 6 days holiday and had paid the claimant for the six days holiday at his full rate of pay notwithstanding that he was on furlough at the time. That was correct and in accordance with The Employment Rights Act 1996 (Coronavirus, Calculation of a Week’s Pay) Regulations 2020 which came into force on 31 July 2020.

5. In the circumstances, I decided that the claim was not well-founded and should be dismissed.

EMPLOYMENT JUDGE A M BUCHANAN

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON 18 June 2021**

**JUDGMENT SENT TO THE PARTIES ON
28 June 2021**

AND ENTERED IN THE REGISTER

FOR THE TRIBUNAL

Note: Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing, or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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