



## EMPLOYMENT TRIBUNALS (SCOTLAND)

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**Case No: 4100298/2020**

**Held in Edinburgh on 22 September 2020**

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**Employment Judge A Jones**

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**Miss C Bourreau**

**Claimant  
In Person**

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**Caramel Holdings Ltd**

**Respondent  
Not present and not  
represented**

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### **JUDGMENT**

The respondent is ordered to pay the claimant the sum of £1088 gross in respect of her entitlement to accrued but untaken annual leave.

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#### **Introduction**

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1. The claimant presented a claim to the Tribunal on 17 January 2020, complaining of unlawful deductions from her wages on the termination of her employment with the respondent. The respondent did not enter a response to the claim and took no further part in the proceedings.

2. A judgment was issued on 5 March 2020 in relation to part of the claimant's claim. An award of £127.50 in respect of deductions from the claimant's wages

was made. A further hearing was set down to consider the remaining aspects of the claimant's claim which related to a failure to pay accrued holiday pay and outstanding tips on the termination of the claimant's employment.

5 **Hearing**

3. A hearing took place remotely on the Cloud Video Platform. The claimant appeared in person. An interpreter had been engaged to provide interpretation services to the Tribunal from English to French.

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4. The Tribunal heard evidence from the claimant. The Tribunal heard that the claimant had worked for the respondent for 1 year and eleven months. She was not issued with a written contract of employment. When she resigned her employment, she was informed by the respondent that she would be paid all outstanding sums due to her.

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5. The claimant corresponded with the respondent but received no response to her request for payment of outstanding sums.

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6. The claimant showed the Tribunal a series of text messages between her, the Chef employed by the respondent and her boss, Lesley. These related to the claimant's entitlement to annual leave. The text confirmed that the claimant was entitled to 16 days' leave. The Tribunal heard that these texts were dated 7 November 2019.

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7. The claimant believed that the leave year was the calendar year but she was not entirely sure about this.

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8. The claimant also indicated that she was not insisting on her claim in relation to tips which she believed were still due to her. She explained that she had no proof as to what sums were due to her in this regard and therefore simply wished to focus on her claim in relation to holiday pay.

9. The claimant confirmed that she was normally paid £8.50 per hour and normally worked 8 hour shifts. She therefore believed that she was due 16 days of pay at £68 per shift , which was a total of £1088 gross.

5 10. The Tribunal concluded on the basis of the evidence before it, that the claimant had been entitled to 16 days leave at the date of her employment. The respondent's failure to pay the claimant in lieu of such leave amounted to an unlawful deduction from her wages contrary to section 13 Employment Rights Act 1996. The respondent is therefore ordered to pay to the claimant the gross  
10 sum of £1088.

15 Employment Judge: Amanda Jones  
Date of Judgment: 22 September 2020  
Entered in register: 24 September 2020  
and copied to parties