



EMPLOYMENT TRIBUNALS

Claimant: Ms T Fulker

Respondent: The Crown Inn Ltd

Heard at: Reading Employment Tribunal via CVP

On: 8 September 2021

Before: Judge Bartlett

Representation

Claimant: in person

Respondent: no representation

JUDGMENT

1. The Tribunal awards Ms Fulker the amount of £187.20 in respect of accrued but unpaid holiday under the Working Time Regulations 1998.

Reasons

2. The respondent did not attend the hearing and no communication was received by the Tribunal office from the respondent setting out a reason why it would be unable to attend the hearing.
3. The claimant stated that she had had no communications with the respondent after the last day of her employment and despite contacting it to agree a bundle had heard nothing.
4. I decided to wait until 10:15 (the hearing was scheduled to start at 10am) but there was still no respondent and no communication from it. In these circumstances, I decided that it was in the interests of the overriding objective to continue with the hearing in the respondent's absence.
5. I took the respondent's ET3 and documents it had sent to accompany that document as the respondent's evidence and statement of case.

6. There is no disagreement between the parties concerning the amount of holiday that Ms Fulker had accrued at the date of the termination of her employment. This is 23.4 hours.
7. Even if there had been disagreement, I find that Ms Fulker had accrued 23.4 hours of holiday at the date of termination of her employment. This is the amount stated as holiday hours on the pay calculation submitted by the respondent in respect of her last month's pay. This is not in excess of the statutory minimum holiday entitlement. Therefore any claims that she was not entitled to a payment in lieu of untaken holiday must be rejected.
8. The pay calculation provided by the respondent sets out that Ms Fulker was paid 54 hours normal pay at the 80% furlough rate and a further payment of £46.20 which was alleged to be a top up holiday pay (at 20% or £2ph).
9. However payment for accrued but untaken holiday must be additional pay to normal weekly pay. Therefore Ms Fulker is entitled to 23.4 hours of holiday pay in addition to the normal monthly hours set out in the July 2020 pay. These hours must be paid at normal not furlough pay rates ie £10 ph rather than £8 ph.
10. Ms Fulker's holiday pay should have been £234 (23.4 x 10). She was paid £46.80. $£324 - 46.80 = £187.20$. This is the amount due to Ms Fulker.

Employment Judge Bartlett

Date 8 September 2021

JUDGMENT SENT TO THE PARTIES ON

21 October 2021

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FOR THE TRIBUNAL OFFICE

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