



EMPLOYMENT TRIBUNALS

Claimant: Miss Heidi Jerrard

Respondent: Caterham Ex Servicemens and Social Club Limited

Heard at: London South Employment Tribunal (by CVP)
On: 7 September 2021

Before: Employment Judge Abbott (sitting alone)

Representation

Claimant: In person

Respondent: Mr Simon Hoyle, Consultant, of Croner

JUDGMENT

1. The respondent has failed to pay the claimant's holiday entitlement and is ordered to pay the claimant the gross sum of **£50.80**.
2. The respondent has made an unauthorised deduction from the claimant's wages and is ordered to pay the claimant the gross sum of **£65.35**.

REASONS

1. Reasons for the substantive 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.
2. The reasons that follow are limited to the calculation of the sums payable, which the parties were unable to agree and I have determined on paper following submissions made by the claimant by email dated 15 September 2021. By an email dated 24 September 2021 the respondent agreed that the quantum issues should be resolved by me without a hearing. I consider it is reasonable and just to determine these issues on paper in view of the sums involved.

3. I considered the calculations provided by the claimant, but do not consider they correctly reflect my findings. My approach (which in fact results in the claimant recovering slightly more than in her own calculations) is set out below.

Holiday pay

4. I found that the claimant was entitled to be paid holiday pay for the period between 22 March and 4 July 2020 at the statutory minimum entitlement, that being the *pro rata* equivalent of 5.6 weeks holiday pay for this period = $(104/365) \times 5.6 = 1.6$ weeks.
5. The claimant's remuneration varied week-to-week. Pursuant to regulation 16 of the Working Time Regulations 1998 I have therefore assessed the claimant's average number of weekly hours by considering the period of 52 weeks prior to the beginning of the period for which she was not paid her holiday pay. According to pages 41-42 of the bundle the claimant worked 194.5 hours in that period, which is an average of 3.74 per week, and her average hourly rate in that period was £8.49.
6. The total holiday pay due is therefore $1.6 \times 3.74 \times £8.49 = £50.80$.

Unpaid furlough wages

7. The materials that I have been provided with make it difficult to determine whether the claimant was paid her proper furlough entitlement. What does appear to be clear from the claimant's email of 15 September 2021, however, is that the claimant does not pursue a claim in relation to furlough wages from 27 April 2020 onwards.
8. I can see from the figures in the bundle (in particular at page 66) that the furlough payments paid by the respondent to the claimant settled down after some initial variation to a weekly gross payment of £30.02. The claimant appears to accept (or at least does not actively dispute) that is the correct figure: see page 40 of the bundle where the claimant makes this assumption.
9. I consider the most reasonable and just approach in the circumstances is to take the weekly figure of £30.02 as correct. That being so, the total sum of furlough payments that the claimant should have received for the period 22 March to 4 July 2020 is $(104/7) \times £30.02 = £446.01$. In fact, according to page 66 of the bundle, she received a total of £380.66. There is thus a shortfall of £65.35.

Employment Judge Abbott

Date: 11 October 2021