

EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: S/4100226/17

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Held in Glasgow on 9 May 2017 and 11 July 2017 (Final Hearing);  
and 12 July 2017 (Deliberation)

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Employment Judge: Ian McPherson (sitting alone)

Miss Geraldine Neill

Claimant  
In Person

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121 Care At Home Limited

Respondents  
Represented by:  
Mr Jacob Demeza-Wilkinson  
Consultant

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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The judgment of the Employment Tribunal is that:-

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(1) With the exception of the respondents' concession that the claimant is due remuneration for making herself ready, willing and available for work on 3 October 2016 for a temporary shift as a Care Assistant, the claimant's claim to the Tribunal, complaining of unlawful deduction from wages, is dismissed in its entirety, as being not well-founded.

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(2) The Tribunal finds that the claimant did not carry out any work for the respondents at all between 15 August 2016 and 9 January 2017, and she did not, prior to 3 October 2016, fulfil the conditions of the provisional offer letter dated 9 August 2016 from Mrs Yvette Gilmour, the respondents'

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director, offering the claimant the post of Team Leader, conditional on receipt of two satisfactory references and a satisfactory PVG check.

- 5 (3) The claimant's claim for unpaid holiday pay in respect of a previous period of employment with the respondents, as a Care Assistant, between 5 May 2015 and 7 July 2015, is time-barred, and outwith the jurisdiction of the Tribunal.
- 10 (4) In respect of the respondents' concession, as detailed in paragraph (1) above, and for the claimant's attendance for work on 3 October 2016, albeit no work was done by her for the respondents on that date, it is ordered by the Tribunal that the respondents shall pay to the claimant the sum of FIFTY FOUR POUNDS (£54.00), being 6 hours at £9.00 per hour, in respect of unpaid wages for that shift.
- 15 (5) The claimant has paid Tribunal fees of £390 in connection with this claim, being a £160 issue fee, and further £230 for the Hearing fee. On 26 July 2017, in R (on the application of UNISON) v Lord Chancellor [2017] UKSC 51 the Supreme Court decided that it was unlawful for Her Majesty's Courts and Tribunals Service (HMCTS) to charge fees of this nature. HMCTS has undertaken to repay such fees.
- 20 (6) In these circumstances, I shall draw to the attention of HMCTS that this is a case in which fees have been paid and they are therefore to be refunded to the claimant. The details of the repayment scheme are a matter for HMCTS.
- 25 (7) The reasons for the judgment set out above are reserved to be given in writing pursuant to Rule 62 of the Employment Tribunals Rules of Procedure 2013.

30 Employment Judge: Ian McPherson  
Date of Judgment: 20 October 2017  
Entered in register: 23 October 2017  
and copied to parties

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