EMPLOYMENT TRIBUNALS

Claimants

(1) MS R BASSETT
(2) MS A BONNER
(3) MS L BURNS
(4) MS R CASS
(5) MR G DRENNAN
(6) MS P HARRIS
(7) MR N LEN
(8) MR J MCKENNA
(9) MS M O'HANLON
(10) MS N SLIGHTS
(11) MS S SMITH
(12) MR C J THOMAS
(13) MS K WAY
(14) MR A WHITEHEAD
(15) MS N WINSOR
(16) MS K MACDIARMID

v

Respondents

(1) QDOS PANTOMIMES LIMITED
(2) CROSSROADS PANTOMIMES LIMITED
(Formerly QDOS ENTERTAINMENT (PANTOMIMES) LIMITED)
(3) WHITE ROCK THEATRE HASTINGS LIMITED

Heard at: Central London Employment Tribunal On: 10-12 January 2022
Before: Employment Judge Norris, sitting alone (via CVP)

Representation:
Claimants – Mr A Shellum, Counsel
Respondents – Mr D Tatton Brown, QC

RESERVED JUDGMENT

The Tribunal's judgment is that:

(1) The Claimants are "limb "b"" workers pursuant to section 230(3) Employment Rights Act 1996 and Regulation 2(1) Working Time Regulations 1998;
(2) The Tribunal makes a declaration to that effect; and
(3) Unless remedy can be agreed between the parties, a Remedy Hearing is to be listed.

REASONS

Background to the case

1. The Claimants in this case have worked under a variety of job titles and in different locations, in each instance (whether as performer, stage manager or in technical/support capacities) in the production of pantomimes. They bring claims for holiday pay on the basis that they are all "limb 'b'" workers pursuant to section 230(3) Employment Rights Act 1996 and Regulation 2(1) Working Time Regulations 1998, that is a worker who:

"has entered into or works under…. any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual".

2. At the relevant times, the three Respondents were subsidiaries of Qdos Entertainment Limited; the First Respondent is dormant, the Second Respondent is described as the world's largest pantomime production company and the Third Respondent is a company operating the titular venue. It is their contention that the Claimants are not "limb b" workers but instead that each of the Claimants carries on a profession or business undertaking for which the Respondents are their "client or customer".

Conduct of the Hearing

3. It took some time for the case to come to a Hearing. There were originally 27 Claimants of whom four were to be Lead Claimants. The consolidated cases had been listed for four days from 3 February 2021 but that Hearing was adjourned after an issue with the identity of those who were to be the Lead Claimants, and it was re-listed for four days from 10 January 2022.

4. By the start of the Hearing before me, there were 16 remaining Claimants. The full list of Claimants is as set out above and in the Schedule attached, which also gives the relevant case numbers, two of the Claimants (Ms Slights and Mr Whitehead) having brought more than one claim. (Note that after the Hearing had concluded, my attention was drawn to the fact that 3304691/2020 was the correct number for the claim by the Eleventh Claimant Ms Smith, which has been included in the schedule. The number I had been given for Ms Smith, 2202184/2019, had been in fact for Ms D Owen, who is no longer a claimant in the case, and that claim has been dismissed on withdrawal).

5. I spent the first morning reading the parties' opening notes, the bundle and witness statements. The bundle initially comprised 787 pages but was supplemented by agreement with some limited additional items over the course of the proceedings.

6. The four Lead Claimants who gave evidence on their behalf were Ms Slights and Mr Whitehead (on the afternoon of day one), Mr Thomas and then Ms Winsor (on day two, Ms Winsor being unable to join until after midday).

7. Ms J Hicks is the General Manager of and employed by the Second Respondent; she was the only witness for the Respondents, giving evidence on the afternoon of day two and the morning three. Both Counsel then spoke to their written submissions which they had exchanged by email and forwarded to the Tribunal during the lunch break.

8. Since I was not listed to sit on 13 January, I had indicated early on the first day that we would need to conclude evidence and submissions by the close on 12 January, which we did with time to spare, and I reserved judgment. I record that I am very grateful to both Counsel for their assistance in ensuring we kept to time, and to all parties for the calm and generally very pleasant manner in which proceedings were conducted. Other professional commitments have led to a long

delay in my promulgation of this decision, for which I apologise to the parties.

Relevant facts

9. Many of the facts in the case were undisputed and I make findings as follows:

9.1 With no disrespect intended to them, it was common ground that none of the four Lead Claimants is what is normally called a "household name", such performers being those to whom the Respondents refer as "Key Artistes". "Key Artistes", the Tribunal was told, will be cast first and will be prominent in the publicity for the production (such as posters, on which the Claimants' photographs are not shown and they do not appear by name). Key Artistes are usually TV or pop stars, or comedians with a public profile, examples including Craig Revel Horwood (Strictly Come Dancing), Leslie Joseph (Birds of a Feather) and Michelle Collins (Eastenders), and they are self-employed performers.

9.2 Having secured the Key Artiste(s) for any production, the Respondents then cast "Artistes". Three of the Lead Claimants are considered "Artistes" and the fourth, Mr Thomas, has been a "Cast Member" or "Ensemble" performer. Like the Key Artistes however, all were engaged under a contract called "Agreement for Artiste's Services" ("Contract") for each performance in which they appeared:

a. Ms Slights

Ms Slights' then partner was represented by QTalent, an agency that is/was part of the Respondents' group, and his agent also facilitated an introduction for Ms Slights. On the basis of the recommendation, and having seen her CV, the Respondents did not require her to audition, and she was originally engaged by the Second Respondent to perform as "Belle" in Beauty and the Beast at the Theatre Royal, Nottingham in the 2017/2018 pantomime season. She reprised that role at the New Theatre, Cardiff in the following season, and in 2019/2020 took the eponymous role of Sleeping Beauty at the Regent Theatre, Stoke.

Ms Slights was to have played "Polly" in Robinson Crusoe & the Caribbean Pirates at the Regent Theatre the following year, but when Stoke was placed in Tier 3 restrictions, the production was cancelled and the Second Respondent paid Ms Slights a week's notice.

Ms Slights claims holiday pay for the 2018/2019 season.

b. Mr Whitehead

Mr Whitehead appeared as The King in Sleeping Beauty at the Beck Theatre in Hayes in 2012, the Emperor in Aladdin at the same theatre two years later, "King Manypence" in Jack and the Beanstalk at the Wyvern Theatre, Swindon in 2013 and The King in Sleeping Beauty, also at the Wyvern Theatre, in 2019.

It is the latter role for which Mr Whitehead claims holiday pay. He did not audition for it because of his prior relationship with the Second Respondent (although it is the Respondents' case that he was engaged on this occasion by the Third Respondent).

c. Mr Thomas

Mr Thomas's role was as a Cast Member/Understudy in Cinderella at the New Theatre, Hull, in 2018. He did not audition (although his casting appears to have

originated in an invitation to his agent to send her clients to do so) because the choreographer, Ms Iles, wanted him to have a role as a dancer in the production. Ultimately, he did not have to perform in the roles for which he was the understudy.

d. Ms Winsor

Ms Winsor appeared as "Tiger Lily" in the Second Respondent's productions of Peter Pan between 2005 and 2007 (at theatres in Birmingham, Bristol and Plymouth) and "Girl Friday" in Robinson Crusoe at the Theatre Royal in Newcastle in 2008. There was then a gap before she performed in one of the Respondent's productions again. Her next two roles were once again as Tiger Lily in Peter Pan, at the New Theatre, Cardiff, in 2016 and the Grand Opera House, Belfast, in 2017.

Her claim however is for holiday pay for the 2018 season, when she appeared as the Fairy Godmother in Cinderella at the Venue Cymru, Llandudno.

Status in the Contract/evidence

9.3 As noted above, the Claimants were all engaged pursuant to the Contract, copies of which were in the bundle before the Tribunal. Ms Slights, Mr Whitehead and Ms Winsor all claimed in their witness statements to have a "familial relationship" with the Respondents and Mr Whitehead, Mr Thomas and Ms Winsor all claimed in their witness statements that the Contract indicated they were workers.

9.4 In fact, the Contract said precisely the opposite in the very first clause (1(a) under the hearing "Status of Engagement"): "The Artiste is a self-employed contractor and this Agreement is a contract for the provision of services and not a contract of employment. Nothing in this Agreement shall render the Artiste an employee, worker or agent of the Producer…." In cross-examination, the relevant Claimants agreed that the sentence in their statements should have read, "Although the Contract itself indicates that I was *not* engaged by the Respondents as a Worker…". Mr Tatton Brown acknowledged, fairly it seems to me, that the statements would all have been drafted with the assistance of the Claimants' representative and according to a fairly standard format, so that once the error had been made in one statement, it was almost inevitably replicated in the others; I also do not consider that the Claimants were deliberately trying to mislead the Tribunal here, although it is fair to say that once the error had been identified when Mr Whitehead gave evidence, it would have been at least prudent to have corrected it for the remaining witnesses.

9.5 As to having a "familial" relationship, Mr Whitehead explained in oral evidence that he meant he had worked for the Respondents on multiple occasions with executive producer Ms Daryl Back, although the evidence suggests that she has her own production company and is not herself an employee of the Respondents (or any of them). Again, I conclude that this use of the word "familial" is something that the Claimants' representative has replicated in each of the statements with insufficient thought being given by anyone to what it actually means, though again I find that it was not intended to mislead the Tribunal.

9.6 It is the Claimants' submission that the provisions in the Contract that purport to confirm self-employed status should be ignored because they do not reflect the reality of the position.

9.7 Other roles and their status/other work

Ms Hicks' witness statement also gave details of others involved in each of the productions: (Deputy/Assistant) Stage Managers (who, she said, are in business on their own account and are considered, like the Claimants, to be self-employed), Musicians (also considered self-employed), and Sound, Lighting and Wardrobe, the latter three positions all being considered "workers" as, Ms Hicks said, they are not operating as a business and because of the "nature of the work they are required to carry out".

9.8 I was still unclear how the distinction was being drawn between Artistes like the Claimants and others (Sound, Lighting and Wardrobe). Ms Hicks said that by "nature of the work", she meant that there is "off-stage, non-performative" involvement that would require these technicians to spend longer than the Claimants on each production although she acknowledged that they are still engaged production by production and not under any kind of umbrella or overarching contract; she also confirmed that no enquiries are made about (for instance) whether the lighting technicians are in fact running their own business when they are not working on the production.

9.9 The Lighting and Sound technicians have the responsibility for "Get In" (putting everything up and preparing the venue for rehearsals) and "Get Out" (putting the lighting and speakers away, de-rigging) and Wardrobe also have to clean and put away the costumes so that these roles are all engaged for several days at the end of the production whereas once the performances end, the Artistes are not.

9.10 For Wardrobe, once the Artistes are engaged, a measurements form is completed for each of them so that Wardrobe can start working as needed; the Wardrobe staff are engaged once the rehearsals start, for the purpose of fittings, to check weights and builds at a time when they know the Artistes will be present.

9.11 During the run of any particular production, it was Ms Hick's evidence that (notwithstanding the contractual clause purporting to prohibit the Claimants making public appearances at any other venue within 40 miles for 12 months before the run starts and for six months after it ends, without the producer's prior written approval) the Claimants were fully at liberty to look for other work, audition and perform in other roles. She considers the Artistes to be "talented, capable and adaptable". She used the example of a comedic actor, who might appear in a pantomime (necessarily starting and accordingly finishing earlier in the evening to accommodate family audiences) and then go on to perform a "stand up" set at a later gig. She said that the Claimants are given complimentary tickets to use so that talent scouts can be invited to watch them perform in the Respondents' productions and enhance their marketability.

9.12 There was no evidence in the bundle of any such arrangement on a formal basis or of the Claimants using their "comps" for that purpose; and in any case, the Claimants gave evidence, which I accept, that the reality is very different for them. Firstly, they are performing in a regional location of the Respondent's choice. This limits both the capacity to audition or perform (most castings at least taking place in London, which Ms Hicks accepted is the "main hub" for the theatre) and the willingness of scouts or producers to travel to (for instance) Llandudno or Belfast to watch them. Mr Whitehead's unchallenged evidence was that the "comps" are in any case generally very restricted, either by the venues themselves or by the

producers, as to when they can be used.

9.13 Further, the performers are, as noted above, contractually required to give "first call" to the Respondent. It is very difficult to see how they could fit in a return trip from (say) Cardiff to London, plus audition time, when there are performances starting between 10.30 and 14.30 for the matinee and mostly either 17.30 or 19.00 for the evening show (there are single days when the later performance starts at 14.30 or 16.00). While they could go on their "days off", there are very few of these (four in the run, in addition to the Bank Holidays when there would be little or no public transport available, and they may well require the time to relax in any event) and they have, as noted above, no say over when they fall. If an audition is being held on a day they are performing for the Respondent, there is little or no prospect that they will be able to attend it.

9.14 Secondly, I accept that the commitment required in performing two shows a day is likely to be a very significant drain on the Claimants' energy. Ms Slights had, for instance, 62 performances scheduled for the 2018/9 Cardiff run, in just over five weeks. I return below to the issue of sick pay, but her evidence, which was not challenged, was that she appears in twelve performances a week and that the songs are often "intense". The roles she has filled, and those of the other Lead Claimants, do not obviously or readily lend themselves to performing in night clubs as well. Indeed, as Ms Hicks observed, if a performer was appearing elsewhere and those appearances were causing them to struggle in the Respondent's production, the Respondent would be concerned to ensure that their production was safeguarded, e.g. by invoking the "first call" clause.

9.15 The notional ability to engage in other work, whether outside or within the pantomime season, is common to (and therefore cannot act as a differentiator between) the Claimants' roles and those of the technicians. It was Ms Hicks' evidence that for those involved in lighting, who, as I have said above, are taken on as workers, it is entirely acceptable for them to carry out work as a lighting technician on other shows (including, I find, for potential competitors of the Respondents) throughout the year and that their involvement is centred around and almost entirely limited to the production itself. The same goes for the sound technicians. It is also readily apparent that the physical requirements in their roles would be much lower than those in (for instance) Mr Thomas's role which requires flips, somersaults etc and that hence they would be in a better position to perform other jobs simultaneously while working on the Respondents' productions.

<u>Agents/fees & negotiations</u>

9.16 All of the Claimants before me have agents (although Ms Hicks' witness statement confirms that it is not mandatory for them to do so), and it is through the agents that the Contract is entered. The agents take a percentage of the Claimants' income from the productions in which they appear.

9.17 I heard evidence as to the extent to which the agents were able to and did negotiate the fees and/or the other terms and conditions of the Contract. I find that it was very limited. There was no evidence at all of an attempt at negotiation of the Contract terms by the agents, although Ms Hicks's oral evidence was that it would have been acceptable for them to try. I return to this point below.

9.18 So far as the fees were concerned, the evidence was that rehearsal fees are fixed

by agreement with Equity and there was similarly no element of negotiation in those at all. For performance fees, it was slightly different for the Artistes. For instance, Ms Slights' agent emailed director Mr Kiley in 2019 asking if the fee could be increased from £900 (the amount on offer, which was the same as the previous year's rate) to £1,000 per week. His answer was brief and to the point: "Hi … Don't have any more in Stoke, we did increase last year. Let me know if Naomi would like to join us". Ms Slights' agent apparently forwarded the response to Ms Slights, and then within four hours, accepted the offer on her behalf. In 2018 there had been no negotiation at all.

9.19 Also in 2019, Mr Whitehead's agent Ms Jenkins attempted to secure for him an increase from £900 to £1,150, on the basis that he had been paid £950 the previous year and that the Wyvern Theatre was bigger than the White Rock Theatre. However, Ms Back corrected Ms Jenkins, saying that it was smaller; and also that the fees in Hastings were higher to attract performers to a production with a shorter run. Ms Jenkins' attempts to secure £1,205 or even £950 were similarly knocked back, but she did eventually achieve £925, and increase of £25 per week for the run.

9.20 I do not accept Ms Hicks's assertion in cross-examination that there was negotiation conducted by phone for any of the Claimants. It seemed to me that this was speculation on her part and there was no evidence of the same (it is not alluded to in any of the correspondence for instance). There is also no evidence of Mr Thomas's (or Ms Winsor's) agent attempting to increase the fees on behalf of their clients. Indeed, Ms Hicks acknowledged in cross-examination that if there was any negotiation to be done within the Ensemble performers, it would be done as a group rather than by any individual. She also stated that if Mr Thomas was the last person to be recruited to the Ensemble and everyone else had already agreed to the fees and the terms in the Contract, any attempt to negotiate would be met with the response "everyone else is already on that fee and we can't negotiate further" (I infer this meant that they **would** not rather than that they **could** not).

9.21 It is clear that fees for all the Claimants were fixed by reference to the Respondents' projected profits, which they calculated on the basis of venue size, length of production run etc. Any potential for increase was therefore slim or non-existent. I also find that the Claimants were disinclined, by reason of their desire/need to secure work from the Respondents and likely because their agents knew it would be unsuccessful, to press harder or sometimes at all for any increase. Mr Whitehead's agent, for instance said in May 2018 to Ms Back, "He's got another panto audition next week but would obviously prefer to do yours…".

9.22 It seems to me that this is the inevitable outcome of the Claimants' almost total lack of bargaining power and lack of other options compared to a business the size of the Respondents'. Simply put, if the Claimants wanted to appear in a significant regional pantomime production, they took what the Respondents had to offer. So far as the Claimants' acting work is concerned, performances with the Respondents constitute a major share each year. This is clear from their tax returns. For instance, in the tax year 2016/7, Ms Slights earned an average of £1,448 a month, working for eleven months as a performer on board a cruise liner, by contrast with the £900 a week that she could earn in the relatively short run of a pantomime. In 2018/2019, her total "fees earned" for the year's work as an

actor/singer/dancer were £20,515, of which just over a quarter - around £5,500 - was for her work with the Respondent. Although I did not have her contract in the bundle, it also seems likely that Ms Winsor's earnings from the Respondent in the tax year 2018/2019 was the entirety of her "self-employed" earnings while she earned substantially more as an employee for two businesses: Annabel's in London and Byron Hamburgers. Ms Hicks agreed in cross-examination that according to their tax returns, the Claimants' earnings were "quite modest" and that many of them have to do other jobs to make ends meet, including, like Ms Winsor, working in the hospitality industry.

Payment & taxation

9.23 In the covering letter to the Claimants' agents which accompanied the Contracts at the relevant times, the Claimants were asked to sign and return one copy to the Second Respondent and to complete three other forms. These included Payment/Payroll forms which the Respondent said were required to be fully completed to comply with HMRC legislation. It said, "If your artiste is registered as self-employed, they must provide Qdos payroll department with their UTR number. By providing this they are acknowledging they are responsible for making their own self-employed returns to HMRC. Failure to provide a UTR number will result in tax being deducted and NI taken". These details were reproduced with only minor variation as part of the Key Terms in the Contracts.

The third paragraph of the covering letter sometimes confirmed that the Claimants were to be reimbursed for advance fare tickets or the petrol equivalent, on production of receipts which had to be submitted by the date production accounts were wrapped (said to be one week after the end of the run). On at least one occasion (Ms Winsor's 2018 engagement), this information was moved to a "special provisions" section of the Contract.

9.24 When Ms Back issued the Contract to Mr Whitehead in 2018, the covering letter was from her, on unheaded paper. The first two paragraphs were to all intents and purposes the same as the covering letters issued on behalf of the Second Respondent, save that rather than returning the forms to the Second Respondent, they had to be returned to Ms Beck herself. This was not replicated in the 2019 covering letter, when the forms had to be returned to the payroll department at Qdos.

9.25 In each case, including Mr Whitehead's engagement in 2019, the enclosed Contract had a Contract number with the prefix QD, which Ms Hicks accepted stands for Qdos. The contracts contained the following paragraph:

"1(b) The Engagement Fee shall be fully inclusive of any and all remuneration payable to the Artiste in connection with the services to be provided and the rights granted hereunder and no additional remuneration shall be paid to the Artiste for: (i) the Artiste's promotional and publicity services In accordance with this Agreement; (ii) read-throughs, rehearsals, photoshoots and wardrobe/make-up/wig fittings; (iii) the Artiste's services on any Sunday or Bank Holiday, or after the expiration of any particular number of hours on any one day; (iv) travel, subsistence and touring allowance; (v) holiday pay; or (vi) for any work on or over the seventh consecutive day. Payment for all of the foregoing is included in the Engagement Fee."

9.26 A separate paragraph indicated that the Engagement Fee was however exclusive of VAT, which would be payable on receipt of a valid invoice. None of the Claimants is registered for VAT and none of them invoiced the Respondent for their fees.

9.27 All the Claimants were, on the contrary, issued instead with payslips during their engagement. These were headed with the name of the First Respondent. They were all given an "Emp No", which I conclude was in effect a payroll number; it did not correspond with the identifying number on their Contracts and in fact was different on each occasion when they were engaged. They were allocated to a "Department" which was the location of the pantomime in which they were appearing (e.g. Hull Panto, Llandudno Panto etc). Neither tax nor National Insurance contributions were deducted, with the Claimants being given tax code "NT" and NI Rate "X". Although the Claimants used an agent to secure the work on the different productions, to which I return below, and were paid via their agents who deducted commission at source, the payslips were addressed to the Claimants at their homes.

9.28 In addition, on a single occasion (on the evidence before me, in 2014) Mr Whitehead was issued with a P45 after his appearance in Swindon. All the parts of that document were in the bundle and the Respondents place significance on the fact that the top copy (Part 1A which is pre-printed "Copy for employee") somebody has stamped FOR REFERENCE ONLY in red. Parts 2 ("Copy for new employer") and 3 ("For completion by new employer") are not stamped in this way.

9.29 Somewhat surprisingly, Ms Hicks gave oral evidence that all supplier invoices are paid through payroll (rather than, for example, via a separate Accounts Payable system). I find it highly improbable that a "conventional" supplier would be given an "Emp No" or any form of payslip. However, Ms Hicks also confirmed that invoicing for example by sound companies (where she said they are providing "stuff as well as people") does not require completion of the Payment Form referred to above, as that is "just for individuals", whereas she would expect an invoice if working "business to business".

9.30 Ms Hicks was not sure about whether the Respondents ask the Artistes to have their own insurance or to provide evidence of the same, although she then said that she believed they would have public liability insurance as a perk of their Equity membership. I asked what would happen if, for instance, Mr Thomas or another of the Ensemble performers got a lift wrong and another cast member was injured. Ms Hicks said it would be "on us" (i.e. the Respondents) and that they would provide access to a physiotherapist or similar.

9.31 I note that in the 2020 Contract issued to Ms Slights, a special provisions clause stated that payment would be made weekly in arrears, the amount each week being contingent on the days worked and with payslips continuing to be issued. I find that this is very likely to be the antithesis of the way the Respondents contract with other suppliers, i.e. not only do the Claimants not have to invoice for the work they have carried out, the Respondent pays them automatically and then issues them with a payslip.

9.32 In addition, we heard that on one occasion when Ms Slights was taken ill and missed a day's performances, she received sick pay, or at least, no deduction was

made to her pay. Ms Hicks' evidence was to the effect that this was a production which experienced illness among several members of the cast and that the Respondents wished to reward everyone for maintaining their professionalism and getting through the run and clearly the Respondents are not to be criticised for this gesture. Nonetheless, it seems to me that in an arms' length commercial arrangement, where the performers are expressly not entitled to sick pay, such payment being made tends to show that the performers are treated more as workers or employees than suppliers. If a commercial supplier does not fulfil its side of the contract, one expects to see a reduction in the payment made by the client. That did not happen here. Indeed, the agent's email, when Ms Slights queried whether she would be docked for days when she could not perform because she had lost her voice, said that she did not expect "salary" to be affected unless it was a prolonged illness.

Negotiation of other terms

9.33 The Claimants gave evidence, supported by the documents in the bundle, and I accept, that they would be engaged by mid- to late Summer in any particular year, and that with the Contract, the Respondents would send out rehearsal dates that were fixed by the Respondents. For Ms Slights in 2018, for instance, her Contract was issued, signed on behalf of the Second Respondent, on 9 July 2018; her rehearsals began on 26 November and the performance dates were 8 December to 13 January 2019 inclusive.

9.34 It was not suggested that either the dates or the times were negotiable. On the contrary, the Contract states expressly at clause 2(b), "The Artiste's engagement is on a first call basis throughout the period from the commencement of rehearsals to the end of the run of the Production (as those dates may be varied by the Producer on reasonable notice to the Artiste) and the Artiste shall not be absent from any of the required performance obligations pursuant to this Agreement without the Producer's prior written approval". In other words, once the Artiste has accepted the offer of engagement in a production, they are committed to attend all the rehearsals and performances as a priority over any other commitments ("first call") and only the Respondents have the right to vary the dates.

9.35 It was Ms Hicks' evidence that the Respondents used (at least until 2019) a "one size fits all" contract, and that this was the explanation for the reference to "holiday pay" at 1b(v) (see extract above). She said that some of the clauses were not really relevant to the Claimants and were more for the Lead Artistes – in the publicity clauses, for instance, the Artistes can be required to carry out promotional and publicity work for the show, but we heard that this rarely, if ever, actually involved the Claimants.

9.36 However, Ms Hicks also said that those working in Wardrobe and Make Up would also have expected to receive such a contract even though they were workers; she said that those issuing it would simply strike through the clauses that were not applicable to a particular role. There was no example in the bundle of any version of the contract issued to a "worker" (as acknowledged by the Respondents) with such crossings through. Indeed, on being pressed for what other clauses might be struck through, Ms Hicks said in fact it was really only clause 1(a), notwithstanding that in clause 3 (Publicity) for instance, there are clearly subclauses which would similarly not be relevant to a person working in Wardrobe (3(c) – "On the Producer's request, the Artiste shall supply the Producer with a

current photograph of the Artiste, together with an up-to-date biography" and 3(e) - "Unless otherwise agreed, all billing on publicity material will be at the Producer's discretion").

9.37 Further, in later versions of the Contract (e.g. the one issued to Ms Slights in 2020) the scope of the provisions around publicity and confidentiality has in fact been increased rather than struck through or removed as being inapplicable. Although the Respondent asserts that the Claimants are in business on their own account, at no stage is it suggested that the Claimants sought to use (or even have) their own standard terms or to amend those supplied by the Respondents. The Contracts are not watermarked or otherwise signalled to be in draft. They are sent in uniform terms in duplicate and the Claimants are required to return one copy.

9.38 In addition, the Claimants had little or no say about other aspects of their performances, such as the costumes they wore, the scripts or the choreography. As to the costumes, Ms Slights' unchallenged evidence was that while there might be adjustments (in terms of taking costumes in or letting them out) they were provided by the show's producer and would often be what had been passed down from the previous season, made to fit the present cast. Ms Hicks confirmed that as part of its business model, the First Respondent owns a huge stock of different costumes; it runs around 30-35 productions as well as hiring out the costumes to other productions. When Mr Thomas auditioned for the 2018 production, the Respondent's production co-ordinator also set out broad parameters for what the performers were expected to wear ("bring jazz shoes or trainers to dance in… girls have a spare pair of heeled shoes… we ask that clothes aren't too baggy"). For the performances, the Claimants wear what they are told to wear.

9.39 In relation to the script, Mr Whitehead gave a specific example of the "ghost gag": this is the routine where at the end, the audience is encouraged/expected to shout, "It's behind you". Mr Whitehead said that there are many ways of reaching that point in the routine, and at one show, he and another actor had been rehearsing it, but when they reached the technical rehearsal, they were told by Ms Back and another producer that they were to do it differently. Mr Whitehead disagreed with their proposal but did not give voice to his disagreement. I asked Ms Hicks what would happen if a performer wanted to (say) tell a joke that they considered funny but that the Respondent considered offensive or inappropriate. She confirmed that "the buck stops with us; we have final sign-off". The Claimants say what they are told to say, and in the way in which they are told to say it.

9.40 I have also indicated above that Ms Slights' evidence was to the effect that her songs can be "intense"; while she might like to have creative input, she does not in effect have any. She said that how the singers, dancers and actors look, and what they do on stage, is down to the choreographer, director and producer, so that although she could, for instance, say she was struggling with a song in a particular key and there might be some flexibility, her evidence was that if a Lead/Key Artiste was unhappy with (say) a song and wanted it to be changed, that was more likely; it would not happen for somebody in her position.

9.41 There appeared to be a modicum of flexibility around Mr Thomas's performances in that he said he would have input into the moves he makes (flips, somersaults, lifts etc) through discussion with the choreographer. However, he considered that the only real leeway he has is where he believes what he is being asked to do is

unsafe; for instance, if he felt that a lift was not possible because of a costume that another performer was wearing, he would have no say in the changing of that costume, but there would be a "collaborative change" regarding the lift itself.

9.42 It was also argued on behalf of the Respondents that the Claimants would not have met key personnel such as the Respondents' Chief Executive, Mr Harrison, Executive Producer Mr Hine, Mr Sherwood (Production Director), and Ms Naughton, Head of Wardrobe and that thus their claims to be integrated into the business were misplaced. Ms Slights however gave evidence that she had met both Mr Harrison and Mr Hine, the former when he had met the cast after her performances and the latter when she was appearing particularly in Stoke, where she said he had a lot of input. She had also had email communications with Ms Naughton, and I note that her contract for the Cardiff Beauty role was sent to her agent from Mr Kiley, whose title in the covering letter is also Executive Producer.

9.43 Mr Whitehead thought he may have met Mr Harrison once but had not met the other heads of department at all. However, I do not consider this determinative. Ms Hicks's evidence was that those in sound, lighting and wardrobe would not meet Mr Harrison or Mr Hine either. They would more likely have contact with the head of production and/or the costume supervisor, given their roles.

<u>Historic position</u>

9.44 Part of the late disclosure in the case was a contract for a Mr Graeme Reid who was not a Claimant before me. Mr Reid was engaged as the Deputy Stage Manager for a production of Cinderella in Hull in December 2011/January 2012. Notwithstanding his different role from the Claimants before me, Mr Reid (and, it appears from the covering letter, the other Deputy Stage Managers that season) was provided by the First Respondent with the same General Artiste Contract that it appears in subsequent iterations was re-titled Agreement for Artiste's Services or Agreement for Artiste/Key Artiste Services. It will be recalled that Ms Hicks confirmed the Deputy Stage Managers are also considered by the Respondents to be in business on their own account and accordingly to be self-employed.

9.45 However, that position was not apparently the one that was taken in 2011. The covering letter confirms that NI will be deducted at source and the front page confirms as follows: "Performance period 8th December 2011 – 8th January 2012 for a wholly inclusive fee of £585.00 per week plus subsistence of £102.50 per week. **The above weekly payments include holiday pay**" (emphasis added).

9.46 The terms in the body of the contract include:

- That payment will be made direct to the Artiste (into their bank account) unless the Respondent receives written confirmation from them that it is to be paid elsewhere, such as to an agent or third party;
- A P45 must be supplied unless the Artiste is self-employed;
- Tax (and, again, NI) will be deducted at source;
- An eleven-hour rest break will be given between the end of rehearsal one day and being called the next;
- The contract could be suspended or terminated, including if the Artiste is in default or incapacitated or with two weeks' notice from the Respondent.

9.47 Other clauses were maintained in the later iterations. For example, in both this version and the later Contract given to the Claimants, the Artiste is required to render their skills in a diligent and competent fashion and to the best of their ability; they are not to insert or omit words without the authorisation of the Respondent (indeed, this particular aspect of the clause has been tightened in the Contract); they are not to be absent from any performance without the Respondent's authorisation (again, enhanced with the insertion of the specific "first call" clause in the Contract, as set out above) and they were required to comply with the rules of the venue as well as those of the Respondent (changed in the later Contract to the rules of the venue and those of the Producer). It seems to me that very little has changed within the relationship, in practical terms. What has changed is the Respondent's acceptance of the personnel involved as workers.

9.48 I also note the following facts from previous occasions when the Claimants have worked for this or another organisation: Mr Whitehead gave evidence that when he has worked in repertory theatre, funded by the Arts Council, he has not been treated as self-employed, and Ms Slights has, as I have noted above, worked on a cruise ship where she was treated as an employee with full employment rights, albeit she had a longer engagement in that instance.

The Claimants' advertising of their services

9.49 Each of the Claimants has a profile on Spotlight, which I understand to be the equivalent of LinkedIn for those in the performing arts. Each of them also uses an agent or agency to secure roles in the entertainment industry, both with the Respondent and elsewhere. Ms Winsor's agency contract requires her, among other things, to maintain a Spotlight profile and ensure it is kept up to date, and also to hold Equity membership. Commission is taken from the Claimants' earnings by their agents.

9.50 Ms Slights confirmed that she had no knowledge of her entry on a website, Stage Faves, and there was no evidence of it in the bundle before me. She was surprised when it was suggested to her that merchandise associated with her name (tote bags, mugs etc) could be purchased; she had had no input into this and has no control over it. She said that if she appears on the website at all, an external person such as a fan will have created the entry. Ms Hicks agreed that she had not seen such evidence recently. I accept that if Ms Slights appears on this or a similar website, it was not of her doing.

Conclusions

10 I have set out above the "limb b" worker definition that appears in the Employment Rights Act 1996 and the Working Time Regulations 1998. In *Uber BV & Others v Aslam & Others*[1], itself quoting from *Bates van Winkelhof v Clyde & Co LLP*[2], the Supreme Court observed that by this definition, employment law distinguishes between three types of people: those employed under a contract of employment; those self-employed people who are in business on their own account and undertake work for their clients or customers; and an intermediate class of workers who are self-employed but who provide their services as part of a profession or business undertaking carried on by someone else.

[1] [2021] ICR 657
[2] [2014] ICR 730

11. The *Uber* case was concerned with the first limb of the definition rather than, as here, the third limb. It was noted that in *Autoclenz v Belcher*[3], the claimants had also signed written contracts stating they were not employees of Autoclenz but subcontractors; there was no mutuality of obligation because they were not obliged to offer their services to the Company nor was it required to offer work to them; and they could provide suitably qualified substitutes. Nonetheless, each tribunal/court found that the terms of the written contract did not alter their legal status as "workers".

12. Uber attempted to assert that the starting point for consideration of whether the claimants in its case were workers should be to interpret any applicable written agreement in place; but this was rejected by the Supreme Court, following *Autoclenz*. The primary question, said the Court, is one of statutory interpretation: do the Claimants meet the relevant statutory provisions so as to qualify for the rights, irrespective of what has been contractually agreed? If so, any clause that purports to exclude their rights as workers is void.

13. The *Uber* decision continues that it is necessary to:

> *"view the facts realistically and to keep in mind the purpose of the legislation. …, the vulnerabilities of workers which create the need for statutory protection are subordination to and dependence upon another person in relation to the work done. …, a touchstone of such subordination and dependence is (as has long been recognised in employment law) the degree of control exercised by the putative employer over the work or services performed by the individual concerned. The greater the extent of such control, the stronger the case for classifying the individual as a "worker" who is employed under a "worker's contract"."*

14. It had been found that the Uber drivers:

> *"…had in some respects a substantial measure of autonomy and independence. In particular, they were free to choose when, how much and where …to work. In these circumstances it is not suggested on their behalf that they performed their services under what is sometimes called an "umbrella" or "overarching" contract with Uber London - in other words, a contract whereby they undertook a continuing obligation to work. The contractual arrangements between drivers and Uber London did subsist over an extended period of time. But they did not bind drivers during periods when drivers were not working: rather, they established the terms on which drivers would work for Uber London on each occasion when they chose to log on to the Uber app.*
>
> *Equally, it is well established and not disputed by Uber that the fact that an individual is entirely free to work or not, and owes no contractual obligation to the person for whom the work is performed when not working, does not preclude a finding that the individual is a worker, or indeed an employee, at the times when he or she is working."*

15. The Claimants in this case are in principle free to choose when, how much and where to work, but if they wish to appear in a pantomime, given that these are

[3] [2011] ICR 1157

entirely seasonal productions, they know they will need to commit to rehearsals from late November, with a run of performances from early December to sometime in January, by and large. I have found that it is unrealistic to say they could work elsewhere during the season because of the physical and geographical constraints on the performers' time.

16. Therefore, while between engagements, the Claimants are not bound by the terms of the Contract, I conclude that once they have committed to that season's production, likely to be in or around August of that year, they have no further autonomy or independence whether in relation to that production or otherwise from the date rehearsals start until the day the run ends. Further, by the time the Claimants are engaged for each season's pantomime, the title of the production, venue (including the cost thereof), dates, ticket prices and Key Artistes have already been fixed by the Respondents. The Claimants are unable to influence any of those factors, all critical to the profitability of the season. Hence, their ability to negotiate their pay – try though their agents might - is in reality very strictly limited, particularly for Mr Thomas when appearing as part of the ensemble (as Ms Hicks accepted), but in fact for all of the Claimants.

17. Further, the Contract is entirely the creation of the Respondent and is applied indiscriminately to all performers, even when neither party has taken the time to read it to check whether its terms are applicable; to the extent necessary, I reject Ms Hicks's evidence that redactions being made on a case-by-case basis. It is clear on the evidence before me that this simply does not happen. All the cast are sent the same standard form, and they either accept it or they do not. There is, as the Claimants submit, a vast degree of inequality of bargaining power between them and the Respondents. There is almost undoubtedly a very real difference between the type of bargaining power that a Key Artiste (or, to use the Respondents' example, Daniel Craig when negotiating his appearances as James Bond) will enjoy and what the Claimants have at their disposal. They sign up to these terms because they have no choice.

18. The facts in this case also could almost not be more different from that in *Macalinden v Lazarov & Others*[4] while still being set against the background of the theatre; the production in that case was a one-off production with a month's run to a very small audience, advertised as being in "pay category – profit share". The fact that the EAT remitted that case to the ET to consider the law afresh and to address the "limb b" issue directly does not really assist me in reaching conclusions in this case.

19. In the Supreme Court's judgment in the *UNISON* case[5], Lord Reed said:

"Relationships between employers and employees are generally characterised by an imbalance of economic power. Recognising the vulnerability of employees to exploitation, discrimination, and other undesirable practices, and the social problems which can result, Parliament has long intervened in those relationships so as to confer statutory rights on employees…."

20. The Supreme Court has also recognised the significance of an imbalance of

[4] UKEAT/0453/13

[5] *R (on the application of Unison)* [2017] UKSC 51

bargaining power. In *Autoclenz* Lord Clarke said:

"… the relative bargaining power of the parties must be taken into account in deciding whether the terms of any written agreement in truth represent what was agreed and the true agreement will often have to be gleaned from all the circumstances of the case, of which the written agreement is only a part. This may be described as a purposive approach to the problem. If so, I am content with that description."

21. This purposive protection for employees and workers would not need to apply to those who run their own business and have an entrepreneurial approach to their work as they intentionally sacrifice protection for independence and the chance to make money directly through their endeavours. The theme of vulnerability and dependence is also relevant when deciding whether the Claimants are in business on their own account. Holiday is a key right derived from the Working Time Directive to protect health and safety. The right is extended to workers because, as it was put in *Byrne Brothers (Formwork) Limited v Baird & Others*[6], quoted with approval by Lady Hale in *Bates van Winkelhof v Clyde & Co LLP*[7]:

"*…. The essence of the intended distinction must be between, on the one hand, workers whose degree of dependence is essentially the same as that of employees and, on the other, contractors who have a sufficiently arm's-length and independent position to be treated as being able to look after themselves in the relevant respects."*

In this case, I consider it is a facet of the acting industry that performers are forced to market themselves through Spotlight, as members of Equity and/or using agents if they are to have any prospect of securing roles. They are not doing so to progress a business that they have established. They are dependent on the production companies for whom they work and cannot "look after themselves in relevant respects".

22. The Respondents' submissions in this matter to the effect that the Claimants' written evidence is less reliable because it was, in effect, cut and pasted by their lawyers into each of their witness statements actually works against the Respondents here, in my view. The Claimants were not sufficiently aware of the contents of the Contract or their significance to realise the mistake, even when it had been pointed out in the oral evidence of successive witnesses. It is not that their evidence is lacking credibility; it is that they are not lawyers or people in business on their own account, and they cannot reasonably be expected to have an understanding of the nuances of the law around worker status.

23. When Equity's Industrial Organiser Mr Fleming endeavoured in a letter before action to engage the Respondent's Managing Director Mr Harrison in correspondence about the Claimants' entitlement to holiday pay, lawyers for the Respondent refused even to enter discussions without knowing the names of the individuals raising the point. Aside from the potentially chilling effect of that response, it is a fairly unambiguous refusal to enter any kind of discussion or compromise about the standard terms of the engagement, even when the fact that

[6] [2002] ICR 667
[7] [2014] UKSC 32

the Contract itself implies that holiday pay is rolled up in the Artistes' pay was raised (and notwithstanding, as I have found, that previous iterations of the Contract expressly provided that payments included holiday pay). It seems to me evident that under the old version, there were references to an eleven-hour break and to holiday pay in order to comply with the requirements of the Working Time regulations and by implication that the Respondent accepted its Artistes were workers, in the same way it still recognises that status for sound, wardrobe or lighting technicians. Changes to eliminate these references appear to have been carried out to remove any rights the performers may have had and not because there is any real difference in what is being done by those engaged or in how they are doing it.

24. The Claimants do not feature on advance or main publicity for the pantomimes, this being a vehicle more to attract the audience by reference to the title of the pantomime and the draw of the Key Artiste(s). Again without disrespect to the abilities and commitment of the Claimants, the Respondents know what will attract people to their productions and it is likely to be the appearance of the household names from talent shows and soap operas rather than that of any of the Claimants before me. It has not been suggested, nor could it reasonably have been, that the Claimants – or any of them – could object to working with a particular celebrity or Key Artiste, or in a particular place or in a particular role, with any expectation of being found an alternative as a result. If the Claimants want the work, they take the package that is on offer. It is only if it suits the Respondent that they may change their location (e.g. when Ms Winsor was moved to Belfast; she expressed herself very grateful to be "placed there", which I find accurately describes the arrangement).

25. As was suggested in the submissions made on behalf of the Claimants, the requirement of personal service is not in dispute between the parties. The facts show that if a substitution is required, e.g. when Ms Slights fell ill, it is the Respondent which arranges it from one of the understudies whom it has appointed; it is not the task of the unwell performer or their agent on their behalf. The commitment of the Claimants to which I have referred above also means that if they did, for example, wish to go to an audition in London on a nominated performance day, they would not simply be able to appoint a substitute to appear in their stead. The "first call" clause in the contract prevents the Claimants from voluntarily absenting themselves, leaving aside their understandable feeling of loyalty to the Respondent and to the show in which they are appearing.

26. I therefore accept that when viewed realistically, the Claimants are thoroughly integrated into the Respondent's operations for the period of their engagement. This is not characterised by which of the personnel from within the senior management team they know, though as I have noted, in fact Ms Slights in particular had met some of the key executives. The most junior employee of any organisation does not have to meet the managing director in order to benefit from employment status. Instead, I have regard to the decision given by Langstaff J in *Cotswold Developments Construction Limited v Williams*[8]:

"The paradigm case falling within the proviso to 2(b) is that of a person working within one of the established professions: solicitor and client, barrister and client,

[8] [2006] IRLR 181

accountant, architect etc. The paradigm case of a customer and someone working in a business undertaking of his own will perhaps be that of the customer of a shop and the shop owner, or of the customer of a tradesman such as a domestic plumber, cabinet maker or portrait painter who commercially markets services as such. Thus viewed, it seems plain that a focus upon whether the purported worker actively markets his services as an independent person to the world in general (a person who will thus have a client or customer) on the one hand, or whether he is recruited by the principal to work for that principal as an integral part of the principal's operations, will in most cases demonstrate on which side of the line a given person falls."

27. I also accept that the Claimants do market themselves to the world in general via their Equity pages and their agents, up to a point; however, I consider this is akin to using any recruitment website such as Monster, Indeed or Hays, or engaging an employment consultant or headhunter. They do this for the purposes of securing the role that, once engaged, the production company – whether the Respondent or a film or theatre group - chooses for them to do under the direction and control of the Respondent, and not to provide professional services of the type described in *Williams.* They are not providing a performance, ready-made by them, to a venue as might be the case with a stand-up comedian or singer, for instance. They are not a "one-person show". Each of them performs within the projects of others and is integrated into each project because the underlying aim of the project is precisely to convey that they are part of the whole. They are part of a "cast".

28. I am therefore not satisfied that the Claimants are in business on their own account, though I do accept that for tax purposes, they are entitled to, and do, write off their expenses, including their agents' commission, wardrobe, make up, hair and photography. Clearly the Claimants have to differentiate in their tax returns between work they have done as recognised employees and work they have done on a "self-employed" basis, because for the former, they will have been on PAYE tax and already have paid National Insurance contributions whereas their tax return will generate an assessment to tax for their work in the latter category. As such, they take advantage of the concessions that are available to the self-employed, otherwise they would be doubly disadvantaged by neither being treated as workers nor being able to write off their expenses as a contractor, and to do so is not inconsistent with them being workers in any case. Further, the mere fact that they are members of the "acting profession" does not define their status, any more than merely being part of the solicitor's profession would govern the status of an in-house lawyer (and as noted by the EAT in *Macalinden*, identifying when someone is part of a "profession" for other purposes may be of limited value to the present exercise).

29. However, even if the Claimants are in business on their own account, I conclude that they are recruited to work for the Respondent as an integral part of the production that the Respondent has chosen, using the Respondent's scripts and costumes and working with the production team appointed, and other cast members recruited, by the Respondent. They are treated the same, in terms of their integration into the payroll system for instance, as an employee rather than being dealt with by an Accounts Payable department and being required to invoice as would be usual with business-to-business transactions; and during the run of the season, they are in a position of exclusivity with the Respondent.

30. I have also noted above that Mr Whitehead at least has been issued with a P45 and, in the earlier version of the Contract, deputy Stage Managers at least were required to supply them at the beginning of the season. Whether or not Ms Hicks is right in her assertion that Mr Whitehead's P45 was issued "for reference only", I consider it matters very little; again, no P45 would be requested by or issued to a genuine client of a business.

31. According to *Byrne Bros*, method of payment is a factor to be taken into account when assessing status. Other factors include the equipment supplied by the putative workers (the Claimants provide none); the exclusivity of the engagement which I have addressed above with particular reference to the first call clause; the degree of control exercised over them (which I have found to be very high throughout the course of the Contract) and the level of risk undertaken. So far as the latter is concerned, the Claimants of course take none. If the Respondents' marketing in a particular year and at a particular venue falls short of a sell-out audience, the Claimants do not expect to be paid any less as a result.

32. I accept the Claimants' submission that the length of the engagement is a by-product of the length of the season and therefore does not lead me away from my findings as to the integral nature of the relationship overall. This does not bring them within the circumstances of a "short-term assignment" identified by Underhill LJ in *Secretary of State for Justice v Windle and Arada*[9]; the Respondents do not have pantomimes running all through the year so the Claimants in their performing roles could not work for them other than during the pantomime season, and I do not find that the definition of service provision change in TUPE assists me in determining this matter. Nor do I consider that the fact the technicians start slightly earlier and/or have to pack away for additional days at the end of the run is a sufficient differentiator from the Claimants' "service" in terms of assessing worker status.

33. It is hence entirely unrealistic to suggest that the Respondents, or any of them, are the "client or customer" of the Claimants. The Second Respondent is the largest pantomime production company in the world. The Claimants are each individual performers, seeking to make a living from their performance skills. The Respondent's marketing efforts through publicity, as set out above, generates the audience for the productions in which the Claimants appear, but under the Contract, the Claimants have no independent right to the show's or even their own associated publicity, before or during the run or even for some time afterwards. They are in a very similar position to Dr Westwood in his claim against Hospital Medical Group[10], in which the Court of Appeal said:

"HMG was not just another purchaser of the claimant's various medical skills. Separately from his general practice and his work at the Albany Clinic, he contracted specifically and exclusively to carry out hair restoration surgery on behalf HMG. In its marketing material, HMG referred to him as "one of our surgeons". Although he was not working for HMG pursuant to a contract of employment, he was clearly an integral part of its undertaking when providing

[9] [2016] ICR 721
[10] *Hospital Medical Group v Westwood* [2014] ICR 415 CA

services in respect of hair restoration, even though he was in business on his own account."

34. It strikes me that no member of the audience would be likely to consider the Claimants to be in business on their own account and the Respondents to be the Claimants' "client"; there would be no reason for them to differentiate the businesses in that way, even if, as Richardson J points out in *Macalinden*, one would not perhaps normally use the words "client or customer" to describe such a relationship anyway. There is one single production, a QDOS pantomime, which the audience has come to see, and they rely on the Respondent to provide it; the audience members are the truly the "customers" of the Respondent but that is the only such relationship across the arrangement. When Ms Winsor was asked to visit a local cancer hospital, it was part of the Respondent's outreach programme not as a piece of corporate social responsibility for her own brand or for her own purposes.

35. I therefore disagree with Mr Tatton-Brown's assertion that this distinguishes the present case from *Westwood* because the Respondents do not call the Claimants "one of our performers": I consider that in fact, they do present the Claimants to the public as exactly that, by including them as cast members in programmes, even if they do not have significant billing in the posters, programmes etc.

36. All of these findings of fact and conclusions lead me inevitably to the decision that the Claimants are "limb b" workers for either the Second Respondent or (in the case of Mr Whitehead when appearing at the Wyvern Theatre, in 2019) the Third Respondent. As such, it will require a Remedy Hearing to be listed if the parties are unable to reach agreement between themselves as to the applicable amounts to be paid in respect of holiday. Directions are sent under separate cover to that effect.

_____

Employment Judge Norris
Date: 4 April 2022

JUDGMENT SENT TO THE PARTIES ON

05/04/2022.

FOR THE TRIBUNAL OFFICE

SCHEDULE

(1)	MS R BASSETT	1303601/2019
(2)	MS A BONNER	1600655/2019
(3)	MS L BURNS	2301890/2019
(4)	MS R CASS	2202175/2019
(5)	MR G DRENNAN	2202137/2019
(6)	MS P HARRIS	2301903/2019
(7)	MR N LEN	2202139/2019
(8)	MR J MCKENNA	2202142/2019
(9)	MS M O'HANLON	2301920/2019
(10)	MS N SLIGHTS	1305741/2019 and 2202145/2019
(11)	MS S SMITH	3304691/2020
(12)	MR C J THOMAS	2202149/2019
(13)	MS K WAY	2202151/2019
(14)	MR A WHITEHEAD	2202152/2019 and 1402351/2019
(15)	MS N WINSOR	1600698/2019
(16)	MS K MACDIARMID	2202787/2020