



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

and

Respondents

Mrs Kim Berry

**(1) Wendy Oliver
(2) North Somerset Council
(3) Disability Direct Limited t/a
DD Payroll Services**

**Held at: Exeter by Video
Before: Employment Judge Smail**

On: 19 August 2022

Appearances

Claimant:

In Person

First Respondent:

Mr C. Thompson (friend)

JUDGMENT

1. North Somerset Council c/o the Legal Department, Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ is joined to the proceedings as Second Respondent upon the initiative of the Tribunal.
2. Disability Direct Limited t/a DD Payroll Services, The Enterprise Centre, 20 Royal Scot Road, Derby DE24 8AJ is joined as Third Respondent upon the initiative of the Tribunal.
3. Permission for the First Respondent to submit a Response out-of-time is refused. The First Respondent's representative was however allowed to participate in the hearing.
4. The Claimant was employed by the First Respondent on a zero-hours contract to care for her autistic son, Thomas. The Second Respondent holds the funds to pay for the Claimant and the Third Respondent administers the payments.
5. The Respondents are jointly and severally liable to pay the Claimant the sums she is owed.

6. The First Respondent agreed to pay the Claimant £20 per hour while her son was less than 18 years old. When her son turned 18, the First Respondent agreed to pay the Claimant £18.37 an hour.
7. In breach of contract, the Claimant was only paid £14.75 an hour once Thomas had turned 18.
8. Owing to the incorrect rate being paid, the Claimant suffered the following shortfalls in due payment:

November 2021

Pay - £354.76

Holiday Pay - £152.04

December 2021

Pay – £448.88

Holiday Pay - £152.04

Total shortfall of pay and holiday pay for those months = £1,107.72.

9. At the termination of her employment on 31 December 2021, the Claimant had 71.2 hours accrued but untaken holiday for the period during which Thomas was under 18. Accordingly, the Claimant is owed $71.2 \times £20 = £1,424$ holiday pay.
10. Credit of £177 is given for 31 December 2021 which the Claimant did not work because of suspected Covid. She was paid 12 hours @ £14.75 for that day.
11. Accordingly, the Respondents jointly owe the Claimant $£1,107.72 + £1,424 - £177 = £2,354.72$.
12. The Respondents jointly and severally must pay the Claimant £2,354.72 within 14 days.

Employment Judge Smail

South West Region

Date: 19 August 2022

Judgment sent to the parties on
5 September 2022 by Miss J Hopes

FOR THE TRIBUNAL OFFICE