



EMPLOYMENT TRIBUNALS

Claimant

Miss K Wheeler

V

Respondent

**A New Angle Ltd
T/A Independent Home Living**

Heard at: Leeds ET (by video)

On: 3 December 2021

Before: Employment Judge P Klimov (sitting alone)

Representation

For the Claimant: in person

For both Respondent: not present or represented

This has been a remote hearing which was not objected to by the parties. The form of remote hearing was by Cloud Video Platform (CVP). A face to face hearing was not held because it was not practicable due to the Coronavirus pandemic restrictions and all issues could be determined in a remote hearing.

JUDGMENT

By failing to pay to the claimant for her accrued but untaken statutory holiday of 3.36 weeks the respondent has made an unauthorised deduction from her wages contrary to section 13 of the Employment Rights Act 1996 (ERA) and in breach of regulation 14(2) of the Working Time Regulations (WTR) and is ordered to pay to the claimant **the net sum of £475.28** with respect to the unlawful deduction made.

Reasons

1. By a claim form dated 29 June 2021 the claimant has brought a complaint of unauthorised deduction from wages with respect to her accrued by untaken statutory holiday.

2. The claimant was employed by the respondent, a care home services provider, as a part-time and later full-time home carer from 30 May 2020 to 31 March 2021. She claims that during her employment with the respondent she was told by the respondent that she was not entitled to holiday because she was a “bank member of staff” and she was not paid any holiday pay upon the termination of her employment.
3. She respondent did not present a response to the claim.
4. On 17 September 2021 the tribunal wrote to the claimant stating that a judgment in default (Rule 21) could be issued against the respondent, however the employment judge is unable to do that because the claimant had not quantified her claim and asking the claimant to provide her calculations within seven days.
5. On 23 September 2021 the claimant sent her calculations, showing that she was entitled to 3.36 weeks of accrued holiday, which translates into the net sum of £475.28.
6. On 7 October 2021 the tribunal listed the case for a public hearing.
7. Today at the hearing, I have reviewed the claimant’s calculations, and on the balance of probabilities, I find that the claimant is entitled to the claimed amount.
8. It appears that the respondent is about to be dissolved. The Companies House records include the Final Gazette Notice stating the strike off date of 30 November 2021 and the dissolution of date as 7 December 2021.
9. However, as at the date of this judgment the respondent has not been dissolved, it still exists as a legal entity, and therefore a judgment can be made against it.
10. The claimant might still be able to object to the dissolution of the respondent by contacting the Companies House. If she chooses to do so, she needs to act promptly.
11. From the records available to me it is not clear whether the respondent was subject to any insolvency arrangements and therefore whether the claimant would be entitled to recover her holiday pay from the National Insurance Fund. She might wish to investigate this matter further.

Employment Judge P Klimov

Dated : 3 December 2021

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