



EMPLOYMENT TRIBUNALS

Claimant: Mr Andrzej Haciski

Respondent: SJ Bargh Limited

Heard at: Manchester (by CVP)

On: 3rd April 2023

Before: Employment Judge Cline (sitting alone)

Representation

Claimant: Miss Justyna Letkiewicz (lay representative)

Respondent: Miss Rebecca Jones, counsel

JUDGMENT

- 1) The Claimant's claim for unpaid holiday pay is well-founded to the extent that, when calculating his average remuneration for the purposes of holiday pay, the Respondent should have included within those calculations the bank holiday premium
- 2) The inclusion of the bank holiday premium when calculating the Claimant's average remuneration for the purposes of holiday pay as set out at paragraph 1 above will only apply to the first 20 days of holiday for the relevant annual period(s)
- 3) The Claimant's claim is not well-founded in respect of his assertion that the Respondent is not permitted to omit weeks when the Claimant did not work each working day when calculating his average remuneration for the purposes of holiday pay and, instead, take into account full weeks from longer than 52 weeks previously
- 4) The Claimant is therefore entitled to a sum to be determined in accordance with the findings made at paragraphs 1, 2 and 3 above and the parties are encouraged to reach terms of agreement through discussion and negotiation or to narrow the issues in dispute so far as reasonably possible
- 5) By 4pm on 24th April 2023, the Respondent will send to the Claimant a proposed calculation of his entitlement to holiday pay in accordance with

the findings made at paragraphs 1, 2 and 3 above

- 6) By 4pm on 26th May 2023, the Claimant will either agree to the Respondent's proposed calculation (in which case the Respondent will, by 4pm on 2nd June 2023, write to the Tribunal confirming the parties' agreement) or will, by 4pm on 26th May 2023, send to the Respondent his own proposed calculation of his entitlement to holiday pay in accordance with the findings made at paragraphs 1, 2 and 3 above
- 7) If either party requires there to be a further hearing in order to determine the calculation of the Claimant's entitlement to holiday pay in accordance with the findings made at paragraphs 1, 2 and 3 above, they must write to the Tribunal by 4pm on 2nd June 2023 (copying in the other party) and ask for a one-day hearing to be listed before Employment Judge Cline (sitting alone, by CVP)
- 8) If a hearing is to take place in accordance with paragraph 7 above, the parties shall be permitted to rely upon the calculations sent to each other as set out at paragraphs 5 and 6 above and will not be permitted to rely upon any further evidence at that hearing beyond that which was provided for the hearing on 3rd April 2023

Employment Judge **Cline**
Date: 3 April 2023

JUDGMENT SENT TO THE PARTIES ON
11 April 2023

FOR THE TRIBUNAL OFFICE

Notes

Reasons for the 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.

Public access to employment tribunal decisions

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