



EMPLOYMENT TRIBUNALS

Claimant: Garnet Grey

Respondent: ORSA Housing Limited

RECORD OF A PRELIMINARY HEARING

Heard at: by CVP

On: 24 March 2023

Before: Employment Judge Britton

Appearances

For the claimant: In person

For the respondent: Mr Dudley (CEO)

REASONS

1. These Reasons are provided pursuant to a request received from the respondent on 19 April 2023. I am extending time by one day to be able to accept the Respondent's request, which was in fact made one day outside of the time limit for requesting written Reasons.
2. This was a claim for unpaid wages (holiday pay) that was presented to the Tribunal on 31 August 2022, following a period of early conciliation between 28 July 2022 and 11 August 2022. The claimant had been employed by the respondent as a Senior Support Worker during the period 22 November 2021 to 12 August 2022. By its response dated 14 September 2022 the respondent resisted the claims.
3. On consideration of the claimant's witness statement, contract of employment, pay slips and other surrounding documents provided within a List of Documents consisting of 17 documents and after listening to Mr Matt Dudley, who gave evidence on behalf of the respondent I made the following findings.
4. The claimant's normal gross pay was £180.00 per week plus a night allowance of £32.50, totalling £212.50 gross per shift. The claimant took annual leave on 25 and 26 May 2022, 30 June 2022 and 1 July 2022. In respect of those days of leave, the claimant received a gross payment of £180.00 per day. I have found that normal remuneration did include the night shift allowance and therefore on each of those four days the claimant's holiday pay was underpaid by £32.50.
5. The respondent's leave year commenced on 1 April each year. The claimant was given permission by the respondent to carry forward 5 days' untaken leave into the leave year that commenced on 1 April 2022. The claimant was not paid for those days of accrued holiday on termination. The claimant was therefore owed £1,062.50 gross in respect of those five days' leave.

6. During the period 1 April 2022 to 12 August 2022 the claimant accrued a further 10.5 days' holiday, 6.5 days of which remained untaken when the Claimant's employment ended.

7. It follows therefore that the claimant was owed 6.5 days' annual leave at a rate of £212.50 per day (per shift) in the sum of £1,381.25. However, the Respondent made a payment of £764.40 in respect of holiday pay on termination.

8. Therefore, the outstanding holiday pay due to the Claimant on termination is as follows:-

4 x £32.50	=	£ 130.00 (as per paragraph 4 above)
5 x £212.50	=	£1,062.00 (as per paragraph 5 above)
6.5 x £212.50 - £764.40	=	£ 616.85 (as per paragraph 7 above)

		£1,808.85 GROSS

Signed by Employment Judge Britton

Date: 25 April 2023