



EMPLOYMENT TRIBUNALS

Claimant: Ms Kayleigh Cowling

Respondent: Playdays Nursery Grimethorpe LLP

RECORD OF A PRELIMINARY HEARING

Heard at: Leeds (in private by telephone)

On: 2 June 2023

Before: Employment Judge R S Drake

Appearances

For the Claimant: No appearance/attendance

For the Respondent: Mrs Donna Wright (Director)

JUDGMENT

1. The Respondent's Counterclaim (Case number for pay they had to pay in excess of what they would have had to pay the Claimant during notice had she worked her notice succeeds and they are awarded and she shall pay them the sum of £440.00:

Reasons

2. At the Preliminary Hearing listed for today's date the Claimant failed to attend and though she had been sent notice dated 15 March 2023 requiring her to respond to the Respondent's Counterclaim (filed with their Response to her claims on 6 March 2023) within 28 days (i.e. by 28 April 2023) she failed to do even that, let alone attend. Accordingly, for the purposes of and in accordance with Rules 21, 22 and 25 of Schedule 1 to the Employment Tribunals (Constitution & Procedure) Regs 2013 ("the Rules") she may not participate in the hearing of the Counterclaim save to such extent as I considered permissible. As she was not present, I could not judge it necessary for her to take part.

- 3 I heard oral evidence from Mrs Wright for the Respondent in which she referred to a number of documents in the Tribunal's bundle available to me electronically. I found her evidence cogent and probative. The Claimant had not worked notice given to her for reasons relating to her failure to co-operate in providing evidence justifying absence and for failure to attend disciplinary hearings. She was normally paid at a rate of £9.50 per hour for 20 hours work per week and she should have but did not work during the notice period of 4 weeks. The Respondents had to pay for 20 hours cover at a rate of £15 per hour which cost them a total of £1,200 whereas it should only have cost them £760. The difference of £440 represents the loss they faced as a result of the Claimant's breach of contract in not working notice.
3. I therefore conclude that the Respondents have made out their Counterclaim and are entitled to be paid by the Claimant the sum of £440.00 for which I give Judgment.

Employment Judge R S Drake
Signed 02 June 2023

Note

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.

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