



EMPLOYMENT TRIBUNALS

Claimant: Mrs A Kitching

Respondents: Andrew Henshaw and Maria Henshaw

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

The judgment of the Tribunal is:

1. The claimant's complaint that the respondent breached her contract of employment by dismissing her without notice is well founded.
2. The claimant's complaint that the respondent failed to pay her the amount due to her on the termination of employment for accrued but untaken holiday under regulation 14 of the Working Time Regulations 1998 is well founded.
3. The respondent must pay to the claimant £791 (subject to any deductions the respondent is required by law to make in respect of tax and national insurance), made up as follows:
 - a. £434.75 as damages for breach of contract (wrongful dismissal); and
 - b. £356.25 being the amount owing in respect of accrued holidays.
4. The claim of unfair dismissal is dismissed, having been withdrawn by the claimant.

Reasons

Breach of contract: dismissal without notice

1. The claimant's unchallenged case is that:
 - 1.1 She was employed by the respondents in their farm shop business from 17 April 2023 to 23 June 2023 to work 47.5 hours' per week.
 - 1.2 During her employment she took two days' holiday.

- 1.3 On 23 June 2023 Mrs Henshaw dismissed her without giving her any notice or pay in lieu of notice or pay in respect of accrued untaken holiday.
2. The claimant was entitled to a week's notice of termination of employment by virtue of section 86 of the Employment Rights Act 1996.
3. The claimant has provided the following information:
 - 3.1 her rate of pay was £12.50 per hour and a week's pay for her was £593.75 before deduction of tax and national insurance;
 - 3.2 she received state benefits of £159 for the week that she should have been given notice for. Therefore the amount of her financial loss for not being given notice is £434.75.
4. Under regulation 14 of the Working Time Regulations 1998 the claimant was entitled to a payment on termination in respect of accrued untaken annual leave.
5. During her employment the claimant accrued 5.3 days' leave under the 1998 Regulations. As she took two days' leave she had 3.3 days' leave accrued and untaken at the termination date. Therefore, she should have been paid £356.25.

Employment Judge Aspden

14 December 2023