EMPLOYMENT TRIBUNALS

Claimant: Lena Gane

Respondent: Royal Mail Group Limited

Heard at: Bristol (by CVP) **On:** 5th September 2025

Before: Employment Judge Sanger

Representation
Claimant: In person
Respondent: Miss Hall, Solicitor

JUDGMENT having been sent to the parties on 7 October 2025 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Rules of Procedure 2024, the following reasons are provided:

REASONS

1. The Claimant presented a claim to the Tribunal on 17th December 2024. The basis of the claim was that the Claimant had been paid sickness pay at an incorrect rate.

2. The Claimant had taken a period of sick leave between 2nd May and 11th November 2024.For the first six months, from 2nd May to 31st October 2024, she had been paid full rate sick pay. Between 1st November and 11th November 2024, however, she had been awarded half rate sick pay. It was her case that she was entitled to full rate sick pay for the entirety of the period in question.

3. Her claim, therefore, was for £346.69 in unpaid salary between 1st and 11th November 2024.

4. The Respondent defended the claim on the basis that, under the relevant policy, the Claimant was not entitled to full rate sick pay. It said that she had been paid the correct amount for the relevant period.

5. The matter was set down for a final hearing on 5th September 2025 by CVP. Mrs Gane appeared, with her husband, Mr Gane, assisting her. Jason Wilson, Senior Employment Policy Manager, appeared as a witness appeared from the Respondent.

Issues

6. The issue to be determined, as agreed at the beginning of the hearing, was what

amount was properly payable to the Claimant during a period of sick leave between 1st and 11th November 2024. Had the Respondent failed to pay the Claimant the amount owed to her, constituting an unlawful deduction from wages?

7. The Claimant had suffered an industrial injury, as classified by the Department for Work and Pensions. Her case was that she should have been paid industrial injury full sick pay for the first 183 days of absence owing to that injury in every four year period; then 183 days at full sick pay; moving on thereafter to half pay. Had that been the case she would have still been eligible for full pay during the relevant period.

8. The Respondent's case was that its policy allowed for a single period of industrial injury full sick pay, of up to 183 days, and that this was not repeated on a four-yearly cycle. It maintained that the half pay was correct.

Evidence

9. The Tribunal took account of an agreed bundle of evidence comprising 87 pages, a witness statement prepared by the Claimant and a witness statement prepared by Jason Wilson, on behalf of the Respondent.

10. A "chronology of sick pay" was provided to the Tribunal which was purported to be agreed. During the Claimant's oral evidence, however, it became clear that it was not agreed in full. The Claimant agreed that she had been paid the sums set out but did not agree with how the different levels of sick pay had been categorised.

11. The Tribunal heard oral evidence from the Claimant and from Jason Wilson.

Findings of Fact

12. The Claimant was engaged by the Respondent as a Post Person from April 2005 and remained employed in the same capacity at the time of the hearing.

13. In May 2012, the Claimant sustained an injury at work after being attacked by a dog while she was delivering post. The injury was recorded as an "industrial injury" by the Department for Work and Pensions (DWP). This meant that, under the Respondent's sickness policy, she was paid industrial injury pay for the first 183 days of her absence owing to that injury. The 2020 Sick Pay Policy was the earliest that was included in the bundle so the policy covering earlier absences was not available.

14. Confirmation that the injury was classified as an Industrial Injury reached the Respondent in May 2016 and the Claimant's first 183 days of sick leave from that point were therefore recorded as "industrial injury" and the Claimant received full pay.

15. Subsequently, sick pay was paid at full rate for all absences up to the relevant period. The relevant period was the only period for which the absence rate was reduced to half pay. It was also the first period in which an absence had lasted for more than six months.

16. Thereafter the Claimant was paid full company sick pay for further absences, many of which, over the 12 intervening years, were for surgery related to the 2012 injury.

17. The Respondent did not pay any "industrial injury full rate sick pay" further to the initial 183 days awarded in 2016.

The policy and guidance

18. The payment of sick pay was governed by the Sick Pay and Pay Conditions Policy. The Respondent's evidence was that this formed part of the contract of employment. This was put to the Claimant in cross-examination, and accepted. I am therefore satisfied that there was a contractual right to sick pay as set out in that policy.

19. The relevant parts of the policy and supporting guidance to which I was directed are as follows:

Sick Pay and Pay Conditions Policy v1 March 2020 p2 ("The Sick Pay Policy")

During absence from work due to sickness or injury, full- and part-time non-managerial employees recruited on or after 3 June 2002 will receive:

- *During the first twelve months of service, statutory sick pay only*
- *After twelve months' service, full rate sick pay for the first six months (26 weeks) of any spell of absence, followed by half rate sick pay*
- *Full rate sick pay will not be paid in total for more than 6 months (26 weeks) during any calendar year. Further periods will be paid at half rate, but no sick pay (other than at pension rate where applicable) will be paid when the employee has been absent for a total of 12 months (with or without pay) in any period of four years*

Sick Pay and Pay Conditions Policy v1 March 2020 p5

An employee who incurs sick absence directly due to an industrial injury sustained, or to a prescribed industrial disease contracted, at work on or after 1 January 1979 will be allowed sick pay at the same rates as above. However during the first six months (26 weeks) of any such absence the overall limits on sick pay across four years will not apply. The first six months (26 weeks) of any such absence will also be ignored when applying these maximum limits on sick pay across any period of four years. Any continued absence beyond six months will be paid according to personal entitlement and reckoned normally.

Sick Pay and Health Guide for Employees v1 April 2018 ("the Guidance")

If an employee has to take sick absence because of an industrial injury or disease which is registered with the Department of Work and Pensions, then the first period of absence up to the maximum entitlement (i.e. 183 days for permanent employees) is not taken into account when calculating sick pay limits, regardless of service (thus a permanent employee in these circumstances is allowed two periods of 183 days before going on to reduced pay).

The chronology of sick pay

20. Between 19th May and 15th July the Claimant was paid "industrial injury - full sick pay" for 183 days.

21. Between 16th July 2018 and 31st October 2024, the Claimant was paid "full rate company sick pay" for 17 absences, which totalled 535 days. None exceeded 183 days in length. The final period of "full rate company sick pay" was for 183 days.

22. Between 1st November and 11th November 2024 the Claimant was paid "half rate company sick pay" for 11 days.

The Claimant's evidence

23. The Claimant gave oral evidence to supplement her witness statement. She said that it had always been her understanding that the phrase "four years" referred to a rolling four year period, so that for any absence attributable to her industrial injury the clock would effectively be "re-set" every four years, allowing for a further period of 183 days "industrial injury full rate sick pay". Her understanding was that this was what had happened every four years since the injury was categorised.

24. The Claimant was not able to point to any evidence to support the contention that that was how her sick pay had been treated. Neither was she able to point to any evidence to suggest that other employees' sick leave had been treated in that way.

25. The Claimant told me that she had not seen a copy of the Guide for Employees until it was produced for this hearing. She acknowledged that she had access to the Respondent's intranet, where it was available, but she stated that she had not been not aware of its existence and had never been directed towards it.

26. The Claimant accepted that she had been paid the sums listed on the Chronology of sick pay but she believed that the majority of the payments should have been listed as "industrial injury full sick pay" not "full sick pay". This was because almost all the absences were due to operations which were required as a result of health problems arising from the industrial injury in 2012.

27. The Claimant described the number of operations she has had to have and the debilitating ongoing effect the injury has had on her life in general and her ability to work. It was clear from her evidence how severely she has been affected by her ongoing health problems.

The Respondent's evidence

28. In his witness statement Mr Wilson set out his understanding of the Sick Pay Policy and the Guidance. It was his evidence that there was no "rolling" four period and that an employee who suffered an industrial injury was entitled to a single, additional, 183-day period of "industrial injury full sick pay" before falling to be paid under the Sick Pay Policy.

29. Following that, the usual Sick Pay Policy is followed. That allows for an employee to receive 183 days of full sick pay in a 12-month period, after which their pay is reduced to half pay. He stated that full rate sick pay will be paid for more than six months in any calendar year.

30. He highlighted the following passages:

> *Full rate sick pay will not be paid in total for more than 6 months (26 weeks) during any calendar year. Further periods will be paid at half rate, but no sick pay (other than at pension rate where applicable) will be paid when the employee has been absent for a total of 12 months (with or without pay) in any period of four years.*

31. He confirmed, with reference to the Chronology, that this was how the Claimant's sick pay had been treated.

32. In oral evidence Mr Wilson confirmed that his understanding was that there was no "rolling" four year period for industrial injury sick pay. The reference to a four year period could be interpreted with reference to the Respondent's absence policy, which carries disciplinary sanctions when absences (of any sort) total twelve months in four years. The first 183 days' absence after an industrial injury is discounted from that reckoning.

33. Mr Wilson said that the Guidance was on the intranet and should also have been

made available to the Claimant in periodic company communications as well as in "work time listening" and during briefings. He was not able to confirm whether or not the Claimant had actually ever been provided with the document, however.

34. In cross examination, Mr Gane (on behalf of the Claimant) referred Mr Wilson to a document which is untitled but is referred to in the bundle index as "Welcome Back Meeting Notes" and by the Claimant in her evidence as an "Action Plan". I will refer to it hereafter as the "Action Plan". It contains an acknowledgement that the Claimant has "*a disability that is covered by the Equality Act*" and its principal purpose appears to be documenting adjustments to be made to the Claimant's tasks. However, in the overview section it says:

> "*Lena has been having ongoing surgery to her left arm since the accident and it was agreed by Royal mail that any absences relating to this injury would not be counted under the absence procedure, these absences will be deducted from all Royal mail policies including reduction in pay after a 6 month or 12 month period*".

35. The document was signed on 20th July 2017 by Glyn Lane, Delivery Office Manager, and the Claimant.

36. Mr Wilson explained that this should be interpreted with reference only to the absence procedure. It was intended to protect the Claimant from the instigation of disciplinary proceedings which might otherwise have arisen because of absences connected with her industrial injury. His evidence was that this was not a document which had the effect of excluding her from the Sick Pay Policy and had never been treated as such by the Respondent. He confirmed that it was not a standard document.

Grievances

37. I saw evidence of two grievances raised by the Claimant relating to her sick pay. The first was in 2020 and was resolved after the Claimant issued a claim in the Employment Tribunal which was then withdrawn. The second was raised in November 2024 and related to the matters currently under consideration.

38. Neither grievance was upheld. The 2020 outcome letter set out the Respondent's position with regard to the four year period, which is the position it maintains during this case. There was, however, a refund of pay made on 14th June 2020 and this would appear to be attributable to an adjustment in the absence type to "industrial injury>183 days". It was not clear to me what that meant or why the refund was processed but it would appear to account for a period when the Claimant's sick pay was adjusted to nil pay.

39. I find that the Claimant had not seen a copy of the Guidance at that time. It was not referred to in any of the grievance correspondence, either in 2020 or in 2024.

Submissions of the parties

40. Mr Gane submitted, on behalf of the Claimant, that the policy was ambiguous. He suggested that the policy might be clarified by the insertion of a reference to a single four year period.

41. The Respondent's primary position was that the policies were clear an unambiguous. However, the submissions on behalf of the Respondent dealt largely with the interpretation of policy documents in the event of ambiguity.

42. The Respondent made reference to a number of Supreme Court cases which assist with the construction of contract terms. Those were *Investors Compensation*

Scheme Ltd v West Bromwich Building Society [1998] 1 WLR 896 ('West Bromwich'); *Rainy Sky SA v Kookmin Bank* [2011] 1 W.L.R. 2900; [2011] UKSC 50 ("Rainy Sky"); *Arnold v Britton and others* [2015] UKSC 36 ('Arnold') and *Wood v Capita Insurance Services Ltd* [2017] UKSC 24 ('Wood v Capita').

43. Taken together, she said, those cases dictate that interpretation, where terms are ambiguous, is about applying business common sense in what parties meant. The Tribunal should not solely analyse the wording, but should look at the entire context, the natural meaning and the intention behind the words chosen.

Discussion and conclusions

44. I am satisfied that, at the time the Claimant and the Respondent entered into a contract of employment, the Sick Pay Policy was incorporated into the contract and formed part of the terms and conditions of the Claimant's contract of employment.

45. I did not find the policy wording to be clear and unambiguous and I had some sympathy with the Claimant's position.

46. I have considered the case law to which I referred above. Each builds on the case that comes before it but in paragraph 10 of Wood, Lord Hodge set out the following approach to be taken by a court or tribunal when asked to interpret ambiguous clauses or contract terms:

> "*The court's task is to ascertain the objective meaning of the language which the parties have chosen to express their agreement. It has long been accepted that this is not a literalist exercise focused solely on a parsing of the wording of the particular clause but that the court must consider the contract as a whole and, depending on the nature, formality and quality of drafting of the contract, give more or less weight to elements of the wider context in reaching its view as to that objective meaning.*"

47. The Respondent's written submissions invited me to conclude that the Wood case supported a definitive test in the interpretation of ambiguous words:

> *The court must ascertain the objective meaning of the language;*
>
> *It is not a literalist exercise focused solely on analysing the wording of a particular clause;*
>
> *The court must consider the contract as a whole and depending on the nature formality and quality of the drafting of the contract, give more or less weight to elements of the wider context in reaching its view.*

48. They went on to say:

> *Interpretation, where ambiguous it is about applying business common sense in what parties meant and should not solely analysis the wording, but look at the entire context, the natural meaning and the intention.* [sic]

49. While that passage from Wood was of some assistance, I note that the line of authority, and Wood in particular, was concerned with language that had been chosen by more than one party to express an agreement that they had reached. It is therefore of limited application here. That type of negotiation does not occur when an employer drafts a contract or, as in this case, a policy, to which the employee can either sign up or not. There was no evidence of negotiation between the Claimant and the Respondent here when the Claimant signed her contract of employment, which incorporated the policy with which we are concerned.

50. I do, however, find that the wider context of the present case must be considered, because the words themselves, on page 5 of the Sick Pay Policy, are ambiguous and the reference to a "four year period" is not, in and of itself, clear.

51. In order to interpret those words, then, I have considered the Action Plan, the Guidance and the witness statements and oral evidence of the Claimant and the Respondent.

Action Plan

52. I had some difficulty reconciling the wording of the Action Plan with the other evidence I heard and read. The words "*these absences will be deducted from all Royal mail policies including reduction in pay after a 6 or 12 month period*" could readily be construed to mean what the Claimant's representative suggested that they meant. However I accepted the evidence of Mr Wilson that the intention was only to exclude the Claimant's absences from being counted in reference to an absence procedure for a number of reasons.

53. The writer of the Action Plan did not give evidence and the Claimant gave no evidence at all about the circumstances in which that document had come to be drawn up or what the Respondent had communicated to her in respect of its status. It was first mentioned during the cross examination of the Respondent's witness.

54. As to the Claimant's position, she gave no evidence that she had ever been told that this document had the effect of allowing her to receive full pay at all times for absences relating to her industrial injury. Her case, in fact, was quite different. It was that she believed herself to be entitled to a renewed allowance for a 183-day period of "industrial injury full sickness pay" every four years.

55. Further, the Action Plan did not appear to have been relied upon by the Claimant in either of the two pay-related grievances.

56. It was also clear from the Respondent's evidence that they had never relied upon it to exclude the Claimant from the general provisions of the Sick Pay Policy. It is plain from the way in which the Claimant's sick pay was processed that this was not the way in which the Respondent had interpreted the Action Plan, if it even had had sight of it, which was not established.

57. I consider that the apparent purpose of the meeting that was documented in the Action Plan was to agree a work plan to ensure that, at a local level, adjustments were made to the Claimant's working conditions to ensure that she could continue to perform her role.

58. Had the Action Plan been intended to impose a variation in how the sickness payment policy was applied I would have expected it to be provided to the HR department to be formalised and not simply to "all Managers and Supervisors" which, on its face, was its only distribution group.

59. I have also taken into account a passage in the Claimant's witness statement, in which she refers to a later Occupational Health referral and she says:

> "*it did also include some suggestions for exceptions to the policy which were requested on my behalf by my DO Manager… but were all rejected by HR"*

60. This leads me to find that a Delivery Office Manager would not be in a senior enough position to make such a direction of their own volition.

Interpretation of the Sick Pay Policy

61. Coming back to the principal documents, I do not find the policy to be clear and unambiguous as was submitted on behalf of Respondent. That much is evident from the fact that after two grievance procedures the matter had still not been satisfactorily explained to the Claimant.

62. Were it not for the "Guide for Employees" I would have found it extremely difficult to interpret the policy as I do. In particular, the phrase "each absence" gave me some difficulty because in this case we are dealing with a series of absences, the vast majority stemming from the single industrial injury sustained in 2012.

63. The relevant paragraphs of the policy are these (emphasis added):

> *Full rate sick pay will not be paid in total for more than 6 months (26 weeks) during any calendar year. Further periods will be paid at half rate, but* ***no sick pay*** *(other than at pension rate where applicable)* ***will be paid when the employee has been absent for a total of 12 months (with or without pay) in any period of four years****.* [Entitlement, Sick Pay Policy page 2]
>
> *An employee who incurs sick absence directly due to an industrial injury sustained, or to a prescribed industrial disease contracted, at work on or after 1 January 1979 will be allowed sick pay at the same rates as above. However during the first six months (26 weeks) of any such absence the overall limits on sick pay across four years will not apply.* ***The first six months (26 weeks) of any such absence will also be ignored when applying these maximum limits on sick pay across any period of four years. Any continued absence beyond six months will be paid according to personal entitlement and reckoned normally.*** [Sick absence due to industrial injury or disease; Sick Pay Policy page 5]

64. That is ambiguous and could, on one reading, be interpreted in the way in which the Claimant has interpreted it, that is to say that every four years the clock "re-sets" and she is entitled to a further 183 days of industrial injury full sick pay.

65. However, that is not my reading of it. When I read those two paragraphs together, it is my view that the extract on page 5 can only be a reference to the extract from page 2. I interpret that to mean that taking 183 days' industrial injury pay will not be counted towards a person's absence where they have been absent for a total of 12 months across a four year period. That would ordinarily have the effect of reducing them to nil pay under the absence policy. By virtue of the industrial injury segment, however, they will effectively be allowed 18 months' absence in the four year period in which their industrial injury full sick pay is taken, before the absence policy would be triggered.

66. Although the wording is not altogether clear, upon careful review, I do not find that the Sick Pay Policy allows for a refreshed period of 183 days' industrial injury full sick pay every four years.

67. In case of doubt, however, the Guidance brings further clarity. It says (emphasis added):

> *If an employee has to take sick absence because of an industrial injury or disease which is registered with the Department of Work and Pensions, then* ***the first period of absence up to the maximum entitlement*** *(i.e. 183 days for permanent employees) is not taken into account when calculating sick pay limits, regardless of service (thus a permanent employee in these circumstances is allowed two periods of 183 days before going on to reduced pay).*

68. It is this sentence that brings the most clarity to the question of the rolling four year period. The intention of the Respondent is set out here, and supported by Mr

Wilson's evidence: for each industrial injury suffered, the first 183 days' absence will be accounted for separately and in addition to the 183 days' full sick pay which is payable to employees under the Sick Pay Policy.

69. Mr Wilson's evidence was entirely supportive of that interpretation. His evidence was that that is how the policy is interpreted across the Respondent company.

70. I am critical of the way in which the Respondent has dealt with the grievance procedures. As Mr Gane said, "had that just been explained properly we might not be here". The impression I gained was that the Claimant's questions about her pay were dismissed rather than addressed. I find that the Guide for Employees was never referred to during those procedures or sent directly to the Claimant for her review. The fact that it is available on the intranet and that it may or may not have been referred to in meetings which may or may not happen depending on an employee's location and manager is not drawing sufficient attention to its existence.

Conclusion

71. Taking the policy in the context of the Guidance and Mr Wilson's evidence, persuades me that the intention of the Respondent was to allow for a single additional period of up to 183 days recovery, for the first period of absence further to an industrial injury which is registered as such with DWP, before an employee's pay is reduced to half pay.

72. When I take into account Mr Wilson's evidence that that is, in fact, how the policy is interpreted across the business, I am satisfied that the Respondent's interpretation of the policy is more likely than not the correct interpretation.

73. For these reasons, I find that the Claimant was paid properly in accordance with the relevant policy and the claim fails.

Employment Judge Sanger
Date: 6 October 2025

REASONS SENT TO THE PARTIES ON
24 October 2025

Jade Lobb
FOR THE TRIBUNAL OFFICE