



EMPLOYMENT TRIBUNALS

Claimant: Jane Grey

Respondent: The Games Room Company UK Limited

REASONS PURSUANT TO A REQUEST FROM THE EMPLOYMENT APPEAL TRIBUNAL

Introduction

1. The Employment Appeal Tribunal has requested that I provide

“Written Reasons if practicable, (i) setting out the available material that was relied upon for the Rule 22 Judgment and the (ii) reasons for the Judge’s determination that was made. Further the Judge is requested to provide, if practicable reasons for the reconsideration Judgment sent to the parties on 8 April 2025 and the Employment Tribunal is requested to provide the Appeal Tribunal with a copy of the Claimant’s reconsideration application dated 31 March 2025”

I deal with each of these in turn, after providing some background to the case. I am grateful for the guidance that the reasons given should be proportionate.

Background

2. The claimant brought a claim for arrears of pay. She was employed by the respondent from 1 July 2021 until 26 December 2024, as a PA to the CEO. Early conciliation occurred between 11 November 2024 and 15 November 2024. The claim was received by the Tribunal on 18 November 2024, whilst still employed by the respondent.
3. She explained in her ET1 that her salary was £33,204 per annum or £2,767 per month gross. Her monthly pay slips showed the correct amounts. However, from

July 2023, the amounts actually paid were lower, giving a total shortfall of £6,369.37.

4. Notice of the claim was given to the respondent on 19 November 2024 and required the respondent to submit a response by 17 December 2024. The parties were at the same time notified that a hearing to consider the claim would take place on 2 May 2025. This letter also contained various case management orders, including a requirement for the claimant within four weeks to provide the respondent with a document setting out how much she was owed and how this was calculated and copies of all supporting documents and evidence.
5. No response was received from the respondent nor was any request for an extension of time to submit a response made.
6. On 17 December 2024, the claimant submitted the following documents to the Tribunal:
 - ☐ Schedule of Loss of wages/salary
 - ☐ Payslips from 30th June 2023 to 30th November 2024
 - ☐ Bank statements from June 2023 to 1st December 2024
7. On 6 January 2025, the claimant wrote to the Tribunal by email, requesting that various additional complaints be added to her claim; these all postdated her original claim and the end of her employment. Her email was as follows:

"I refer to the case Grey v The Games Room Company UK Limited, case no. 6018985/24.

In accordance with the Orders made by the Employment Judge (letter dated 19 November 2024), I have sent to the Company's Managing Director documents setting out how much I am claiming and how this has been calculated. However, I have not received any documents from the Company, which should have been sent to me by 31st December 2024. Furthermore, as of 6th January 2025, I have not been paid:

- ☐ Outstanding holiday pay of £1,979.20 (before tax)
- ☐ SSP (Statutory Sick Pay) for December of £443.65 (before tax)
- ☐ Redundancy pay of £2,873.07 (I was made redundant on 26th December 2024).

I therefore formally request the Employment Judge to permit me to amend my claim to include the holiday pay, Statutory Sick Pay and redundancy pay owing to me and, as of 6th January 2025, unpaid.

The email was not copied to the respondent.

8. On 3 February 2025, the Tribunal wrote to the claimant to say that no response from the respondent had been received and so the Tribunal was considering entering judgment without a hearing. The claimant was asked to explain how much she was claiming and to show how she calculated that figure. She was also asked to provide supporting evidence and to answer some additional questions. This was copied to the respondent. The respondent was also informed by separate letter on the same date that as it did not present a response, judgment may now be entered against it.
9. No response was received from the respondent.
10. The claimant replied on 5 February 2025 by email, answering the questions and providing additional evidence and a Schedule of Loss. The email was copied to "thompsonj".
11. The email provided as follows (with the blue text referred to replicated in blue):

"Further to your email with attachments, I can respond (below in blue) to your requests for further information as follows, using your numbering:

1. Your weekly wage both before and after deduction of tax and national insurance:

£638.46 (before deduction of tax and NI)

£527.37 (after deduction of tax and NI)

2. The amount claimed as unpaid wages and how you calculate that figure, including the period of time when wages were not paid. You should use your gross weekly wage (your earnings before deduction of tax and national insurance) in this calculation: *The amount of unpaid wages from August 2023 to 31st December 2024 was £21,839.46, (see attached SoL).*

3. The amount claimed as accrued holiday pay and how you calculate this figure. Again you should use your gross weekly wage in this calculation; *I was due 15.5 days unpaid holiday which was calculated at £127.69 per day, making a total of £1,979.20 (see 31/12/2024 payslip), which I have not received.*

4. How much notice pay you are claiming and why. If your contract of employment includes a provision for notice you should tell us what it says. You should use your net weekly wage (your earnings after deduction of tax and national insurance) in this calculation; *As I was signed off sick (with stress) for my entire notice period (31st October to 26th December 2024) my employer decided to pay SSP only, therefore I am not claiming notice pay (copy of clause attached). I received no SSP for the month of December amounting to £443.65, which I am claiming in addition to back wages of £16,543.54, 15.5 days' holiday pay of £1,979.20 and 4.5 weeks' redundancy pay of £2,873.07 (see attached SoL).*

5. If you obtained alternative employment in the notice period. If you did, you should tell us your net earnings from that employment during the notice period; *I did not obtain alternative employment during the notice period.*

6. The amount of any benefits you received in the notice period: *I received SSP for the month of November of £693.83 (see payslip for 29/11/2024); I received no SSP for December and no holiday or redundancy pay.*

Supporting documents attached include Schedule of Loss, payslips and bank statements for the period July 2023 until December 2024 and a copy of the Notice clause in my employee contract."

12. The extract of the claimant's contract shows that she was entitled to four weeks' notice in the first two years of her employment, following her probationary period. For three to five years inclusive continuous service, she was entitled to eight weeks' notice. She had approximately three and a half years of continuous service. It is noted, however, that the claimant is not claiming notice pay.
13. The schedule of loss provides a detailed breakdown of the amounts claimed. It contains a month by month breakdown from August 2023 to December 2024 of the amounts due (£2,766.77 per month gross, verified by wage slips up to November 2024) and the amounts received, verified by reference to bank statements. Credit is given for statutory sick pay in November and December 2024. The figures for December 2024 also include a 4.5 weeks redundancy amount of £2,873.07 and 15 days holiday of £1,979.20. The total claimed is £21,839.46, of which unpaid wages are £16,987.19.
14. The file was then referred to me for consideration. I approved a Rule 22 judgment on 20 March 2025. This was sent to the parties on 31 March 2025. The judgment awarded £21,273.99 in total, comprising unpaid wages of £16,987.19 gross, a

redundancy payment of £2,873.07 and accrued but untaken holiday pay of £1,413.73. The discrepancy between the amount claimed and the amount awarded related solely to my calculation of holiday pay. The judgment made clear that the hearing on 2nd May 2025 was cancelled.

15. The claimant emailed the Tribunal on the same day at 14.56 to ask for reconsideration of the amount of holiday pay awarded. Her email said:

“Dear Shiraham Hassan

I am in receipt today of the Judgment decision and its accompanying documents, thank you; however, the holiday pay figure is less than the figure on my payslip. I have checked this with my Citizens Advice representative and he thinks what you have done is to divide my weekly pay by 7 rather than by 5: £638.46 per week, divided by 7 = £91.2085 per day, multiplied by 15.5 days = £1413.73. In other words, the assumption is that I worked 7 days per week rather than 5, which is not correct and means I am out of pocket to the tune of £565.47. The correct figure for 15.5 days’ holiday pay is, therefore, £1,979.20, making a total owed of £21,839.46. Can you confirm acceptance of this and that the total figure owed can be amended to reflect this please?

Many thanks and kind regards

Jane Grey”

16. The email was not copied to the respondent.

17. As the application for reconsideration was made within the permitted 14 days of the judgment being sent to the parties, I considered it and concluded that my calculation was incorrect, for reasons I will explain below. Using the correct methodology, I reconsidered my original decision. The reconsideration judgment reflected the figure for holiday pay of £1,979.20 and the revised aggregate of £21,839.46. This was sent to the parties on 8th April 2025.

18. On 9th April 2025, the respondent emailed the Tribunal as follows:

“Dear Canaan Clarke-Williams,

I am writing in response to your letter received on the 4th April dated 31st March whereby you inform us of the judgement made in this case.

We were unaware that the case would not take place on the 2nd May 2025 and had no prior communication or knowledge that the case would be heard on the 20th March, indeed we were planning to attend on the 2nd May 2025.

With respect to the judgement whilst we do not disagree, with the amounts in bullet point 3 for redundancy and bullet point 4 for holiday pay, we disagree with the amount in bullet 2.

We are querying the gross wages of £16,987.19 as this differs significantly from the £6,368.37 on the claim form submitted by Jane Grey in November of last year.

Please can you clarify this point before we consider whether we will appeal the judgement.

Given the short deadlines I would appreciate a quick response, so we can consider our position.

*Many thanks
Talia Findlay”*

19. No response was received from the respondent to the reconsideration judgment. However, on 12 May 2025 the following email was received from Croner:

“Dear Sir/Madam

We write to inform that we have been instructed by the Respondent in the above matter as their representative. Therefore, please can you records be amended accordingly and with the email address tribunals@croner.co.uk

In addition, we write to request the following:

- 1. Written reasons for the Judgment sent to the parties on 31st March 2025.*
- 2. Written reasons for the reconsidered Judgment, sent to the parties on 8th April 2025.*
- 3. Any correspondence sent by the Tribunal to the parties.*
- 4. Any correspondence sent to the Tribunal by the Claimant.*

We confirm we have copied in the Claimant into this email.

Yours faithfully

*Amanda Beattie
Litigation Field Manager
Croner”*

20. As the reconsideration judgment was sent to the parties on 8 April 2025, this request was more than 14 days after the judgment was sent to the parties.

Reasons for original judgment

21. I have set out above the materials I was provided by the claimant. I reviewed all of this information. No evidence or statements to the contrary were provided by the respondent.

22. I reminded myself of the Deductions from Wages (Limitation) Regulations 2014; these apply to claims issued on or after 1 July 2015. These regulations have introduced section 23(4A) to the Employment Rights Act 1996 which limits claims for unlawful deductions to the period of two years ending with the date of presentation of the complaint.

23. I began by reviewing the claim for unpaid wages. I noted that the amount claimed had risen from the amount set out in the original claim. However, time had moved on since the claim was lodged and I considered it reasonable to review the total amount of arrears shown by the evidence provided. Information was provided from June 2023 until December 2024; there was therefore no issue with any part of the claim being time barred for the reasons set out in paragraph 22 so I could consider the whole period claimed.

24. I did this by ascertaining the amounts received on a month by month basis, as shown by the claimant's bank statements. I compared this with the monthly amount that should have been received (as shown in the wage slips), to calculate the net shortfall. Based on the evidence provided, I was satisfied that she had been underpaid by a gross amount of £16,987.19 in relation to June 2023 to December 2024.

25. I then considered the claims for a redundancy payment and holiday pay. These were not in the original claim but as they had arisen after the claim was made, I considered it reasonable to take them into account. I was aware that the claimant said she had provided evidence of the amounts claimed to the respondent and that no responses to the Tribunal's communications had been received from the respondent. I also concluded that the respondent would have been aware that the

claimant was made redundant and would be entitled to a redundancy payment and holiday pay. The bank statements provided did not show either being paid. I therefore concluded that it was in the interests of justice and in accordance with the overriding objective to consider these. In particular, the delay to the claimant and the additional burden on the Tribunal's resources of not considering these when faced with an unresponsive respondent outweighed the potential advantages of requiring the claimant to bring another claim or giving the respondent another opportunity to respond. The respondent also had the protection of being able to ask for reconsideration or appealing if it disagreed with the decision. (I of course was not aware at that point the respondent would subsequently appeal, albeit out of time).

26. I calculated the redundancy payment due and agreed with the amount the claimant had claimed. I now note that the respondent also agrees with this figure, although I was not aware of this at the time.

27. I could not verify the number of accrued but untaken days holiday claimed. However, absent any evidence to the contrary, I considered it reasonable to accept the number of days claimed. I calculated the amount of pay due by taking the claimant's annual salary and dividing by 365 to give a daily rate, I then multiplied this by the number of days claimed to give a total due.

Reasons for reconsideration decision

28. I have set out the claimant's reconsideration request on 31st March 2025 at paragraph 15 above. If the EAT would like a copy of the actual email, we would be happy to provide it.

29. The reconsideration request only related to the calculation of holiday and so that is all I considered.

30. My starting point was the Working Time Regulations 1988.

31. Regulation 14 explains the entitlement to leave where a worker's employment is terminated during the course of his leave year, and as at the date of termination of employment the amount of leave which they have taken is different from the amount of leave to which they were entitled in that leave year. Where the proportion of leave taken is less than that which they are entitled, the employer is required to make a payment in lieu of leave in accordance with Regulation 14(3). This gives the claimant an entitlement to be paid for accrued but untaken holiday.

32. Regulation 16(1) provides that *“A worker is entitled to be paid in respect of any period of annual leave to which he is entitled pursuant under regulation 13, at the rate of a week’s pay in respect of each week of annual leave”*. The holiday pay due should therefore be calculated by reference to weekly pay.
33. A week’s pay is determined pursuant to sections 221 to 224 of the Employment Rights Act 1996. Section 229(2) in addition provides that where periods of pay do not coincide with weekly pay (such as here where pay is paid monthly), the amount payable “shall be apportioned in such manner as may be just”.
34. The Employment Tribunal Remedies Handbook 2025 suggests various alternatives to calculate weekly pay. These are (i) dividing monthly pay by 4.3 (ii) multiplying monthly pay by 12, dividing that figure by 365 and then multiplying by 7 (iii) dividing annual salary by 52 or (iv) taking the salary and dividing it by the number of days covered and then multiplying by 7. Options (i) and (ii) are most appropriate here as we have a consistent figure for monthly pay.
35. Having established the principles to be applied, I calculated the claimant’s weekly pay. The claimant has identified her gross weekly salary as £638.46 (see paragraph 11 above). Her schedule of loss identifies her gross monthly salary as £2,766.77 (see paragraph 13); I have used this to calculate her weekly pay. Using method (i) in paragraph 34 gives a weekly pay of £643.41, slightly higher than the claimant’s figure. Method (ii) gives a weekly pay of £636.74, a slightly lower figure. Averaging these figures gives a figure of £640.08. This is slightly higher than her figure of £638.46. Given she has requested the lower figure, I considered it just to adopt this. I therefore found that her gross weekly pay is £638.46.
36. I then calculated the holiday pay due to the claimant, based on the 15.5 days she claimed. The claimant worked five days per week and holiday only relates to working days. As a result, 15.5 days holiday is three weeks (15 divided by 5) with a half day remaining. Three weeks at £638.46 per week gives £1,915.38. I then calculated the half day’s pay by dividing the weekly rate by the number of working days to give a working day’s pay (this gave £127.69). I then divided this by two to give a half day, this gave £63.85. Finally, I calculated the holiday pay owing by adding the three weeks figure to the half day figure, to give a total of £1,979.23.
37. My figure was three pence higher than the amount the claimant asked for, which was £1,979.20. As this figure was lower and was the amount requested, I

considered it just to award her the figure she had asked for. I therefore determined on reconsideration that the amount of holiday pay owing was £1,979.20.

38. Having raised the figure for holiday pay, I recalculated the total owing by adding the unchallenged figures for unpaid wages and redundancy payment to this revised figure, giving a total of £21,839.46. This was recorded in my reconsideration judgment.

Approved by:
Employment Judge Lumby
20 December 2025