



EMPLOYMENT TRIBUNALS

Claimant Miss S Reynolds

Respondent: 00 Bar Limited

HELD AT: Sheffield

ON: 13 November 2018

BEFORE: Employment Judge Brain

REPRESENTATION:

Claimant: No attendance

Respondent: Mr D Sharp, Director and Mr P Goodier, Manager

JUDGMENT

The Judgment of the Employment is that the claim for compensation for holidays accrued but untaken as at the date of termination of her employment fails and stands dismissed.

REASONS

1. This is a claim made by the claimant for compensation for holiday accrued but untaken at the date of termination of her contract of employment with the respondent. It is a claim brought pursuant to the Working Time Regulations 1998.
2. There was no attendance by or on behalf of the claimant. On 5 November 2018 she applied for a postponement of the hearing because of an opportunity to start a new job. On 8 November 2018 Employment Judge Wade refused the postponement application.

3. On 12 November 2018 (at 12.38) the claimant asked if she could make written submissions. This email was not actioned by the Employment Tribunal and was not brought to my attention until 17.10 that day.
4. I am satisfied, having heard from Mr Sharp and Mr Goodier, that the claimant in fact resigned her employment with immediate effect on 21 December 2018 and started working for the respondent under a new employment contract on 24 December 2017.
5. That being the case, her annual leave year commenced on 24 December 2017. She worked until 26 June 2018 and therefore had accrued 14 days of holiday at the date of termination of the contract. This is upon the basis that she worked five days a week and was entitled to the statutory minimum of 5.6 weeks holiday per year.
6. I am also satisfied from the evidence of Mr Sharp and Mr Goodier that the claimant in fact took holiday exceeding her accrued entitlement. In the period after 1 April 2018 she took 12 days holiday and in the period prior to that date she took 10 days holiday.
7. That being the case, she has no entitlement to compensation for holiday accrued due but untaken at the date of termination.
8. It is unfortunate that there was no response from the Tribunal to the claimant's email of 12 November 2018 (at 12.38). Nonetheless, I am satisfied from the evidence that the claimant has no accrued entitlement.

Employment Judge Brain

Dated 23rd November 2018

JUDGMENT SENT TO THE PARTIES ON

FOR THE TRIBUNAL OFFICE

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