



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss Zella Davis

**Respondent:** Clacton Snooker Centre Ltd

**Heard at:** East London Hearing Centre (by telephone)

**On:** Tuesday 13 October 2020

**Before:** Employment Judge Housego

## Representation

**Claimant:** In person

**Respondent:** Did not attend, was not represented and sent no Submissions

## JUDGMENT

1. **The Respondent is ordered to pay to the Claimant £1,730.76 in respect of notice pay.**
2. **The Respondent is ordered to pay to the Claimant a redundancy payment of £2,812.49.**
3. **The claim for holiday pay is dismissed.**

## REASONS

1. The Claimant was employed at the Clacton Snooker Centre from 26 March 2007, until she was sent her P45 on 23 March 2020. The Respondent was her employer when she was dismissed: it is accepted by the Respondent that there was continuity of employment from the start of her employment through several changes of ownership. Ms Davis was paid £625 pcm. This was gross and net as she did not earn enough to pay tax or national insurance.
2. The snooker club was forced to close on 20 March 2020 by reason of the Covid-19 restrictions that were imposed on that day. As soon as that

happened the Respondent sent Ms Davis a P45. He said that he could not afford to pay her and reclaim furlough pay, and so had to end her employment. Ms Davis gave the date which was put on the P45 as the date her employment ended. This was 23 March 2020. In its response the Respondent agreed that this was the date her employment ended.

3. The reason for the ending of Ms Davis employment was the forced closure of the snooker centre. No notice was given by Respondent.
4. Had Ms Davis been given notice it would have been 12 weeks, as she had worked there for over 12 years<sup>1</sup>. Her monthly pay was £625, which is £7,500 a year, which is £144.23 a week.  $12 \times £144.23 = \mathbf{£1,730.76}$ , and the claim for notice pay of that amount succeeds.
5. Although Ms Davis was not given notice, the calculation of her length of service for her redundancy payment is worked out as if she had been given the 12 weeks' notice to which she was entitled by statute<sup>2</sup>. As she started on 26 March 2007 and ended on 23 March 2020, that increases Ms Davis' length of employment to 13 years for the purpose of calculating her redundancy payment.
6. The reason was redundancy – the business had no need of staff, as from 20 March 2020 it was unable to open its doors to the public. Ms Davis is entitled to a redundancy payment because the dismissal was wholly or mainly attributable to the fact that the requirements of that business for employees to carry out work of a particular kind in the place where the employee was employed by the employer had ceased or diminished<sup>3</sup>.
7. She was born on 31 March 1960. She was 60 at the end of her employment. The calculation is based on 13 years service. Ms Davis is entitled to a redundancy payment of 1½ weeks' pay for those 13 years, because she was over 41 for the whole period<sup>4</sup>. The calculator is at <https://www.gov.uk/calculate-your-redundancy-pay/y>.
8. The sum is  $13 \times 1.5 = 19.5$  weeks pay. Her pay was £625 pcm.  $£625 \times 12 = £7,500$  a year. That amount divided by 52 gives weekly pay of £144.23.  $£144.23 \times 19.5 = \mathbf{£2,812.49}$  and that is the amount of the statutory redundancy payment which I order the Respondent to pay to Ms Davis.
9. Ms Davis thinks that Stephen Anderson is not in the UK, but in Greece, where she thinks he has a home. She says (and I accept) that he told her that he could not furlough her as he did not have the money to pay her salary even though he could reclaim it from the Government. Ms Davis does not think that she can find Mr Anderson, and that even if she could there is no chance of his company (the Respondent) paying her the money she is due by reason of this judgment.
10. If the Respondent does not pay the redundancy payment Ms Davis may apply to the Secretary of State (for Business Energy and Industrial Strategy)

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<sup>1</sup> S86(1)(c) Employment Rights Act 1996

<sup>2</sup> S97(3)(b) Employment Rights Act 1996

<sup>3</sup> S137(1)(b)(ii) Employment Rights Act 1996

<sup>4</sup> S162(2) Employment Rights Act 1996

for it to be paid by the Government, even if the Respondent has not been declared insolvent:

*“166 Applications for payments.*

(1) *Where an employee claims that his employer is liable to pay to him an employer’s payment and either—*

(a) ***that the employee has taken all reasonable steps, other than legal proceedings, to recover the payment from the employer and the employer has refused or failed to pay it, or has paid part of it and has refused or failed to pay the balance, or***

(b) *that the employer is insolvent and the whole or part of the payment remains unpaid,*

(c) *the employee may apply to the Secretary of State for a payment under this section.*

(2) *In this Part “employer’s payment”, in relation to an employee, means-*

(a) *a redundancy payment which his employer is liable to pay to him ...”*

11. The webpage is <https://www.gov.uk/claim-redundancy>. It contains a link to a similar provision for claiming notice pay from the Government if the Respondent similarly does not pay it.

12. Ms Davis claimed that she should have received either holiday pay or sickness pay for absence in November 2019 when she was away from work, having had an operation. As the claim was lodged on 01 June 2020 that claim is out of time (the period being 3 months plus the early conciliation period). As it would have been reasonably practicable to have brought that claim in time I must dismiss it.

**Employment Judge Housego**  
**Date 13 October 2020**