



EMPLOYMENT TRIBUNALS

Claimant

Miss J Hind

Respondent

Savoi Limited

v

Heard at: Sheffield

On: 16 November 2023

Before: Employment Judge James

Representation

For the Claimant: In person

For the Respondent: Ms Bibi, lay representative

JUDGMENT

- (1) The claim for **accrued holiday pay** is upheld **in the sum of £824.29**.
- (2) The claim for **failure to provide a statement of particulars of employment** (Sections 1 to 3 Employment Rights Act 1996) is upheld. Under s.38 Employment Act 2002 the tribunal awards the sum of four weeks wages - **4 weeks x £196.26 = £785.04**.
- (3) The claim for **failure to provide itemised pay slips** (Section 8 Employment Rights Act 1996) is upheld. During the last 11 weeks or so of her employment, deductions of **£336.20**. The tribunal awards this sum.
- (4) **The total amount is £1945.53, which should be paid to the claimant gross**. The claimant should account to HMRC for any tax due on the payment in respect of holiday pay. It is assumed that the other two items are non-taxable, being sums paid in compensation for breaches of her employment rights, not remuneration paid to her in return for work.

BRIEF WRITTEN REASONS

1. In relation to holiday pay, the tribunal use the figure of £6869.18, from the claimant's spreadsheet in the bundle, which also confirmed that she worked for 35 weeks of the 39 week period that her employment lasted for. Dividing the total wage by 35 gives a average weekly wage of £196.26 gross. Unfortunately, it was

not possible to check those figures against the figures shown in the payslips, because the payslip which should have been available for February 2023 was not produced. In the circumstances, it seemed appropriate to use the claimant's figures. In any event, the claimant had confirmed that on her calculations, there was only about a £40 difference in pay over the 39 week period, on average, just over £1 per week.

2. The holiday accrued over the 39 week period of employment is $39/52$ multiplied by 5.6 weeks = 4.2 weeks. Multiplying that by the average weekly wage gives the figure of £824 29.

3. The respondent had taken a time point in its response, assuming that the claimant's claim for holiday pay related to the period at the end of January and beginning of February 2023, when she said she would not be available to work. However, the claimant's claim was not for pay for that particular holiday period, but for the holiday which had accrued during her 39 week period of employment, which is payable to her as a payment in lieu, on the termination of her employment under regulation 14 of the WTR.

4. In relation to the claim for failure to provide a statement of written particulars, it was not in dispute that no such statement had been provided. It is also noted that the claimant informed the tribunal that other employees had not received a statement of particulars either. These are important provisions of the Employment Rights Act 1996. Such statements should set out important terms of employment, including pay, holiday pay, notice periods, and sick pay. Details about disciplinary and grievance procedures should also be provided. As an award has been made for holiday pay, the claimant was entitled to paid at least two weeks, and up to four weeks if it was just and equitable to do so (and further, that there were no exceptional circumstances why such award should not be made).

5. The tribunal concluded that it was just and equitable to award four weeks pay, given that the practice of the respondent appears to be to not provide written statements of particulars of employment to any of its employees/workers. It is to be hoped that the respondent will now change its practice in relation to that.

6. In relation to the claimant under section 8 of the ERA, the right is for the employee/worker to be given an itemised payslip, setting out any deductions made. It is not sufficient for the employer to make payslips available at a workplace, on request. Where a tribunal finds that the right to itemised payslips has not been complied with, the employment tribunal may award to a claimant, the aggregate of the deductions made from wages during the last 13 weeks of employment. Going from the figures set out in the payslips that have now been provided from May, June and July 2023, the aggregate deductions during that period of about 11 weeks when the claimant was still in employment, is £336.20. The tribunal concluded that it was fair to award that amount. Again, this will hopefully encourage the respondent to ensure that itemised payslips are specifically given to employees. In this era of electronic communications, that should be a relatively simple process to facilitate, for people with access to a smart phone. Hard copies should be made available to those who do not.

Employment Judge James

Dated 16 November 2023