

THE EMPLOYMENT TRIBUNALS

BETWEEN

Mr Robert Alan Simons

Claimant

and

The Green Courier Limited

Respondent

JUDGMENT OF THE EMPLOYMENT TRIBUNAL UPON RECONSIDERATION

HELD AT: London Central

ON: 28 February 2019

EMPLOYMENT JUDGE: Mr Paul Stewart

MEMBERS: sitting alone

Appearances:

For Claimant: In person

For Respondent: Ms D Sinclair, General Manager

JUDGMENT UPON RECONSIDERATION

UPON hearing evidence from the Claimant and upon hearing the parties

IT IS HEREBY ORDERED THAT:

The Respondent do pay to the Claimant

1. Unpaid wages in the sum of £2,040.32;
2. Unpaid holiday pay in the sum of £338.88.
3. Credit is to be given for deductions of income tax and national insurance that should properly be made from such sums.

REASONS

1. At the hearing on 28 February 2019, I asked Ms Sinclair to check whether the assertion made by the Claimant that he had only taken “a couple of days” holiday the holiday year starting 15 January 2018 before he was dismissed on 24 May 2018 was correct.
2. Ms Sinclair did check and reported to the Tribunal by email dated 15 March 2019 that the Claimant had, in fact, taken 4 days holiday in the holiday year prior to his dismissal. Ms Sinclair asked that this fact be placed before me so as the judgment could be amended.
3. In the circumstances, I have treated Ms Sinclair’s email as an application that I reconsider my judgment and I offer my apology that only now is her application being actioned.

4. I had set out my calculation of what the Claimant was owed in holiday pay at paragraph 11 of my Reasons for my Judgment of 28 February 2019. I repeat that paragraph here:
 11. The Claimant was somewhat surprised at this turn of events: as he put it, he had expected to be paid for the days in May he had worked up to his day of non-attendance on 24 May and he also considered he was entitled to accrued holiday pay. His contract of employment specified he was entitled to 20 days holiday per year and the holiday year was stated to start on 15 January. He had worked four complete months since 15 January and, as at the date of leaving, could have had 6.67 days holiday. However, he had only had, as he put it, "a couple of days holiday". That if accurate and Ms Sinclair was going to check this out, would mean he was entitled to 4.67 days accrued holiday pay.
5. The last sentence of that paragraph should read:

If that assertion was accurate (and Ms Sinclair was going to check this out) it would mean he was entitled to 4.67 days accrued holiday pay.
6. If, as Ms Sinclair reports, the Claimant took 4 and not 2 days holiday, that means he would be entitled to 2.67 days accrued holiday pay.
7. I had calculated that the Claimant, working 5 days per week, was likely to have worked 260 days in a 365-day year. On a salary of £33,000 gross per year, that meant his pay for each working day was £126.92. Holiday pay for 2.67 days therefore amounted to £338.88 gross.
8. Therefore, basing my calculations on the report I invited Ms Sinclair to make and which I accept, the amount of unpaid holiday pay that I ordered the Respondent to pay to the Claimant at paragraph 2 of my Order should be amended to read £338.88.

Signed:

EMPLOYMENT JUDGE STEWART
On: 29 April 2019

DECISION SENT TO THE PARTIES ON

15 May 2019

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FOR SECRETARY OF THE TRIBUNALS