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EMPLOYMENT TRIBUNALS

Claimant: Mrs T Biswas

Respondent: Creams Blue Water Foods Ltd

Heard at: East London Hearing Centre (by Cloud Video Platform)

On: 4 February 2021

Before: Employment Judge Housego

Representation

Claimant: In person

Respondent: Did not appear, was not represented and had not entered an appearance.

This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was V by Cloud Video Platform. A face to face hearing was not held because the relevant matters could be determined in a remote hearing.

JUDGMENT

1. The Respondent made deductions from the Claimant's wages of £1,145.92, and is ordered to pay that sum to the Claimant.
2. The Respondent is ordered to pay the Claimant holiday pay of £1,209.94.
3. The Respondent is ordered to pay the Claimant notice pay of £132.96.
4. The total amount the Respondent is ordered to pay to the Claimant is £2,488.82.

REASONS

1. The Respondent is a limited company, number 11518881, incorporated on 15 August 2018, whose registered office is at 127 Fencepiece Road, Ilford, England, IG6 2LD. The sole director, appointed on 08 September 2020, is [ABDUL BASHEER, Mohamed Azeem](#).
2. The Claimant was employed by the Respondent from 28 November 2018. She was dismissed on 30 June 2020, when she contacted her manager, Wasim. He sent her a text message telling her that she did not work there anymore.
3. Ms Biswas claims notice pay, holiday pay outstanding, and wages outstanding from before her dismissal, being her last 2 months' pay and 2 weeks' pay in hand.
4. I heard oral evidence from Ms Biswas, who also provided payslips showing her income from the Respondent, and screen shots of the text messages between her and her manager. She was paid at 4 weekly intervals. She worked 16 hours a week. Her hourly rate was £8.31. On a monthly basis the Claimant, using the Government website, calculated that the monthly pay was £550. I accept that as correct for the purposes of the claim for pay for May and June 2020.
5. On 14 February 2020 Ms Biswas went on holiday to Bangladesh (she is from Bangladesh). Her return was delayed for Covid reasons. She was placed on furlough and was paid for April 2020, but not for May or June 2020.
6. She returned to the UK on 07 May 2020. She contacted her manager Wasim. He did not respond. When she did so again in June 2020, he told her (in a text message on 30 June 2020) that she no longer worked for the Respondent. This was a summary dismissal. It was unfair, as he gave no potentially fair reason, but Ms Biswas cannot claim unfair dismissal as she worked for the Respondent for less than 2 years.
7. Ms Biswas asked for holiday pay on several occasions, but none was ever paid to her throughout her time employed by the Respondent.
8. Ms Biswas was not paid after April 2020. She was due pay for May and June 2020, as she was placed on furlough, and was not dismissed until 30 June 2020. She was not told that her furlough had ended. She had asked for that pay. Her pay was £550 a month. As her pay was low there was no tax or national insurance deduction.
9. Her entitlement was for 80% of 2 months' pay. This is because she agreed to be placed on furlough and the employer was not obliged to pay more than the 80% that could be claimed from the Government. $2 \times £550 = £1,100$. 80% of that is **£880**. It is not relevant whether or not the Respondent made a claim from the government for Ms Biswas furlough pay. If it did, there is no loss to the Respondent in paying Ms Biswas (and unjust enrichment in retaining the money). If it did not, that does not affect Ms Biswas' entitlement to her pay.

10. When Ms Biswas started work in November 2018 she was not paid for the first 2 weeks. She was working 2 weeks in hand. That falls due for payment at the end of her employment. She was paid £8.31 an hour. For a 16 hour week that is £132.96. Twice that is **£265.92**.

11. (In total the deduction from wages was £265.92 plus the £880 above, which is £1,145.92.)

12. Ms Biswas was not given any notice. She claims 1 week's pay in lieu of notice. She was entitled to 1 week's notice (having been employed more than 1 and less than 2 years). Her pay for a week is 16 hours' pay at £8.31 an hour. This is **£132.96**.

13. Ms Biswas was not paid any holiday pay when employed by the Respondent. The entitlement is 5.6 weeks a year. Her week's pay was 16 x £8.31 = £132.96. She worked 1 full year and from 28 November – 30 June. That is 7 months. 7/12ths of 5.6 is 3.27, which rounds up to 3.5 weeks' entitlement. 5.6 + 3.5 is 9.1 weeks, at £132.96. That is **£1,209.94**.

14. The total is therefore £880.00 + £265.92 + £132.96 + £1,209.94 = **£2,488.82**.

15. In the event that the sum is not paid within 42 days of this judgment, County Court proceedings can be issued: <https://www.gov.uk/make-court-claim-for-money> .

Employment Judge Housego

4 February 2021