

No. 289/20

4<sup>th</sup> June 2020

Dear Colleagues,

## Average Pay on Annual Leave (Holiday Pay) – Royal Mail Group

Further to LTB 243/20 issued on 5<sup>th</sup> May 2020, Branches will recall that for Employment Tribunal (ET) cases in England and Wales, the respective legal parties were involved in dialogue concerning a simplified process for members who either have an existing ET claim and are now taking further annual leave, or for members who have not yet registered a claim and therefore need to do so. These talks took on added significance given that the new annual leave period commenced on 1<sup>st</sup> April 2020 and annual leave taken from this time needs to be captured.

Richard Crabtree from Unionline has now contacted the DGS(P) Department to confirm that in relation to those cases in England and Wales, Royal Mail has agreed to the amendments proposed by Unionline, which to recap are as follows:

1. For existing claims new periods of holiday leave are added by this amendment without the need to submit individual applications to amend.
2. For new Claimants, once lodged in the normal way, then the future periods of holiday leave can be added without the need for further individual amendment.

Unionline has informed the DGS(P) Department that the Tribunal has confirmed that the above amendment and the Respondent agreement to that amendment stands and is to be repeated every three months. Richard Crabtree will therefore be repeating this again in July and has no doubt that Weightmans (the solicitors for Royal Mail Group) will continue to accept by way of agreement.

To summarise, Unionline has already made the blanket application to amend on behalf of all Claimants by saying “...*additional claims for subsequent periods of underpaid holiday pay are to be added by way of amendment without the need to submit individual applications to amend*”. Royal Mail has now agreed this.

Unionline has therefore stated that members who have current ET claims do not need to make further individual applications in anticipation of an eventual settlement or award. These members should however keep a legible record (supported by documents) showing:

- i) The dates taken for the additional/new holiday leave
- ii) The pay they received for this leave
- iii) The pay they should have received (using an average of the 52 weeks’ pay prior to the start of the leave in question)

For the time being members can keep this record themselves but should be ready to disclose the information when needed, along with their payslips that show the above calculations. This information should therefore be kept safe and updated for every period of leave that is taken. Unionline will be in touch when this is required.

Those members who do **not** have an existing claim with the Tribunal will need to make an online application using the standard ET1 form, bearing in mind the three month time limit from the date of the deduction in their holiday pay. When completing this, members will need to:

- i) Name the CWU as their representative
- ii) Quote their ACAS certificate number
- iii) Check that the names of both parties match the names on the ACAS certificate

It must also be reiterated that the Tribunal has asked that members do not contact them for updates.

Richard Crabtree has further advised the DGS(P) Department that in respect of the case itself and given that there are several thousand, the Tribunal will not be hearing from each Claimant.

The Department is therefore already taking steps to liaise with Unionline in order to prepare the ground for selecting a series of "Lead Claimants" from our members. Whilst a number have already been proposed we will need to ascertain that these will be representative of the various job roles and also reflect any geographical, organisational and factual differences in the way that overtime is performed in Royal Mail Group. Going forward, these lead members will be the individuals giving evidence in the Employment Tribunal and upon which all cases will be decided. Royal Mail Group will still reserve the right to take issue with any individual amounts if it were to come to deciding the "remedy" but will essentially now restrict the case to the lead Claimants.

Branches in Scotland and Northern Ireland should however note that the position in relation to both Scottish cases and those in Northern Ireland remains unchanged at present from that contained in the aforementioned LTB 243/20. This information has been reproduced below for ease of reference:

## **SCOTLAND**

*Branches will recall that all employment tribunal claims in Scotland were originally sisted until 20<sup>th</sup> April 2020. This was then extended by just over a week to 28<sup>th</sup> April 2020.*

*Following an update from Unionline in Scotland, unfortunately the position is that all Tribunal hearings scheduled to take place from the middle of March until 30<sup>th</sup> June 2020 have now been cancelled. These claims will be prioritised when the Tribunal list in person hearings again.*

*In the telephone case management discussions involving the respective parties, in order to reschedule cancelled hearings, the Tribunal has advised that these Employment Tribunal cases will now be listed for a final hearing through Jan 2021 until March 2021.*

*The cases are of course safely in the system and it is possible that the timeframe for final hearings will be reduced. However, rather than raise expectations, at the time of writing we have to work on the assumption that there is likely to be a significant delay in arranging a final hearing. Unionline will be writing to the Tribunal this week to request that a telephone case management be arranged so that cases can start to be progressed.*

## **NORTHERN IRELAND**

*The situation in Northern Ireland remains unchanged at present, with all cases awaiting the outcome of the case involving the Police Service of Northern Ireland.*

It is unfortunate that mainly due to the COVID-19 crisis the process for Employment Tribunal hearings has become elongated, but it is still vital that Branches continue to maximise the number of claims from members. The information contained in this LTB should therefore be circulated as widely as possible.

In closing I would like to thank you for your continued hard work regarding average pay on annual leave and hope that you and your families are safe and well. Further developments will be relayed in due course.

Any enquiries in relation to the content of this LTB should be addressed to the DGS(P) Department.

Yours sincerely,



Terry Pullinger  
**Deputy General Secretary (Postal)**