

UNISON City of Edinburgh Branch

Members Briefing



'Normal Pay for Holiday' Claims

Background

On 22 May 2014, UNISON member Joe Lock was successful in his claim, *Lock v British Gas*. The Court of Justice of the European Union (CJEU) found that a worker's 20 days statutory annual leave pay should include commission payments if these were part of normal pay.

The Employment Tribunal will decide how UK law will now be interpreted in light of this decision. It is likely that whatever decision is reached by the Employment Tribunal will be appealed through the higher courts, so it may be a long time before any payments are received.

If members are regularly paid payments for time or activities at work that are not paid when they take annual leave (e.g. commission payments, other supplements, bonuses or overtime payments) then there may be entitlement to increased holiday pay in future and back pay.

Branch Action

We have written to all the employers, where we have members, and asked what they intend to do in relation to unpaid holiday pay in respect of additional payments during working time. City of Edinburgh Council have responded and confirmed that where staff are regularly receiving working time payments such as shift allowance, that these payments are included in pay when staff are on annual leave.

They have advised they will continue to discuss the case and hope to be able to come back to us.

We are still waiting for responses from our other employers. On a national level UNISON is collating responses from employers and will then decide a strategy on how best to pursue claims.

What you need to do

If you think you may have a claim, contact the branch office. This will allow us to keep you up to date on your employer's response and on UNISON's claim strategy. You should ensure that you keep your contact details up to date. The easiest and quickest means of contact is through email. Don't worry if you don't have an email address as we will still write out to members if required.

You should contact the branch immediately if:

- Your employer stops making the payments for commission, other supplements, bonuses or overtime payments;
- The employer starts paying any unpaid commission, other supplements, bonuses or overtime payments during annual leave.

Amanda Kerr
Branch Secretary



Local government pay ballot opens 9 September

