

British Gas refused permission to appeal on holiday pay case

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British Gas has been refused permission to appeal to the Supreme Court over a decision that holiday pay must include results-based commission.

Mr Lock was employed by British Gas. Although he received a basic salary, 60% of his overall remuneration comprised commission on sales achieved. However, his holiday pay was calculated solely by reference to his basic pay, and was therefore considerably less than his usual pay. As a result of this, Mr Lock brought a claim against his employer.

The European Court of Justice, Employment Appeal Tribunal and Court of Appeal all ruled that statutory holiday payments must include a representative proportion of the results-based commission Mr Lock would normally receive.

The Supreme Court's refusal means that it is now set in stone that employers must factor such pay elements into the 4 weeks' statutory holiday; however, as the underlying right originates from European law, it is unclear at this stage whether there will be any revisions post-Brexit.

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