Holiday pay must include results-based commission

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The calculation of statutory holiday pay should take into account results-based commission.

Mr Lock was employed by British Gas. Though 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. As a result of this, Mr Lock brought a claim against his employer.

Last July, we reported on the European Court of Justice's decision that commission payments must be taken into account when calculating holiday pay, so as to avoid the worker being put at a disadvantage by using their holiday entitlement.

The Employment Appeal Tribunal has since confirmed that Mr Lock should receive holiday pay at a rate which includes both his basic salary and the sales-based commission he would normally receive.

It is unsurprising that the EAT has followed the European judgment on this point. The decision will have a particular impact on industries in which commission payments are a significant component of overall remuneration.

British Gas Trading Ltd v Lock and another UKEAT/0189/15

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