

REGION 7

15th July 2010

Dear Unite the union Offshore Catering Branch Member,

Volcanic Ash : Offshore Delays.

Employment Tribunal Claim For Unlawful Deduction of Wages.

Further to my letter dated 31st May where in I explained that COTA had confirmed that days delayed offshore due to the volcanic ash cloud will be treated as a weather delay and as such will be paid in line with Clause 14 of the COTA agreement unless a particular client chooses to pay the overtime rate.

Our opinion on this matter has not changed and we believe that these delays are not due to any type of weather bound situation and that in accordance within section 3 of the current COTA Agreement, overtime payments should apply, except where a client's enhanced rota gives provision for the use of claw back days.

My letter of 31st of May also confirmed:

- The importance of raising a grievance if you were unhappy with the payments you received while delayed offshore. I also provided draft wording for your grievance letter.
- Your right to apply to Unite for legal representation with regard to an Employment Tribunal claim.
- The importance of submitting a claim to the Employment Tribunals (Scotland) within three months less one day of the effective date when your wages/salary were not paid. It should be noted that this time scale must be strictly adhered to by you.

To assist you in your application to an Employment Tribunal should you decide to make one, please see below a draft wording for you to enter into Section 5.2 explaining the basis of your claim. Insert the dates you were delayed for, and if working past your normal check in time on the day you came ashore enter the number of extra hours you worked:

My contract of employment with the respondent incorporates the terms of the COTA Joint Memorandum of Agreement. Section 3 of that Agreement states: "The overtime rate applies for hours worked in excess of 12 hours per day or, for hours worked in addition to the employee's normal work cycle."

Flights to and from offshore facilities were disrupted by the recent volcanic ash activity. As a result I was held on the offshore unit and I continued to work during that time. Those hours of work were in addition to my normal work cycle. Accordingly I should have been paid at the overtime rate. Instead I was paid at the single time rate.

The dates on which I was held on the unit were [insert dates] and I worked for 12 hours on each of those days. I also worked [insert number of hours worked] hours on [insert date of final day offshore].

I seek a declaration that the respondent has made an unlawful deduction from my wages in contravention of Section 13 of the Employment Rights Act 1996 and I seek compensation.

Please note that it is **your personal responsibility** to lodge your application within the time period set down by law. Failure to do so within three months less one day of the effective date when your wages/salary were not paid will result in the application being time-barred and under no circumstances will the Union be held responsible if you fail to do so.

The Union does not hold Employment Tribunal Application forms but they can be obtained from your local Employment Office, any Citizens Advice Bureau or directly from the Central Office of Employment Tribunals (Scotland), The Eagle Star Building, 215 Bothwell Street, Glasgow G2 7TS (telephone 0141 204 0730) or can be completed on line at www.employmenttribunals.gov.uk/Documents/FormsGuidance/newforms/ET1.pdf.

Should you decide to submit a claim to an Employment Tribunal then please make sure you photocopy your completed Tribunal form before sending it to the Central Office of Employment Tribunals alternatively print off the online copy once completed.

Should you wish to request legal assistance in respect of your Employment Tribunal claim it is important that you contact the Union at the very earliest opportunity with full details of any days which you were held on the unit due to the volcanic ash delays, and for which you are claiming overtime payments.

Should you wish to discuss any matters raised in this letter or the possibility of representation please do not hesitate to contact me or Victor Fraser COTA Learning Rep at this address.

I must also advise you that under Union rule you are required to keep your Union fees up to date as failure to do so will affect your right to representation from the Union.

Yours Faithfully



Mr John Taylor

C.c. Victor Fraser – COTA Learning Rep