

Erl's Musicians Of The Orchestra Claim Withheld Leave Remuneration

Musicians from various regions of the world come to Erl year after year for orchestral rehearsals, work there not uncommonly relentlessly for weeks until the end of the festival season without a single day off, and have apparently been deprived of their „compensations for unused holidays“ which are due to them by law.

Since the musicians of the orchestra scatter in all directions on the day after the final performance in Erl, to the North, the South, the West, and in particular to the East, they have not consumed any leave at all; thus, however, they may claim indispensable entitlement concerning vacation days for a working period of six weeks in the form of monetary compensation pro-rata arising from statutory regulations.

The Management Betray Themselves

Things have changed in Erl and nobody is happier about this than I. In 2019, a compensation for unused holidays has obviously and out of the blue been disbursed for the first time, which helped the musicians recognize that this money must have been embezzled in previous years.



Fat lump-sum expense allowance for the boss, payments by standing order to his residence in Italy etc., while the orchestra members remained being obviously deprived of their entitlements.

In a letter to the management drafted in English and signed by „The Musicians of the Orchestra of the Tiroler Festspiele Erl“ these „musicians“ now demand by operation of law the reimbursement for retroactive effect for a period of three years. A copy of this letter was sent to me (with the verified full name of the postal sender on the envelope).

So far, the Tiroler Festspiele Erl have evidently tried to undermine the musicians' „mandatory claim“ – as the wage and social dumping law puts it – by formulating in their contracts that „all labour demands are compensated for the full period of time in the gross salary“. Such arrangements that impair the rights of the musicians are inadmissible even though they were subscribed by them. A specialist for labour law validated my assumption that there is simply no scope for defrauding. No matter what area employees come from, their employment here is subject to Austrian law.

2019-07-12

Tiroler Festspiele GmbH
Mr. Mag. Andreas Leisner
Mrs. Mag. Natascha Muellauer
Muehlgraben 56a
6343 ERL

To whom it may concern,

In the contracts which have been concluded since 2016 between the Tiroler Festspiele Erl GmbH and the musicians of the orchestra the „holiday regulations“ were referred to in accordance with the law: „Hinsichtlich des Urlaubes gilt das Urlaubsgesetz in der jeweils gueltigen Fassung“.

We politely recall that the legal consumption of the holidays of the orchestra musicians of the Tiroler Festspiele Erl had apparently not been possible in the past productions, and therefore had obviously never been consumed.

Since 2019 it is now clearly stated in our contracts that „a holiday consumption of the employee during the season of the festival is not possible“. Therefore the holiday entitlement has been disbursed.

We thank you for that.

In the years before, however, this had apparently been forgotten: since 2016 we have never received any extra financial compensation for the holiday consumption.

We may hereby request that this entitlement for the past years shall retroactively be compensated according to the law and paid out within the next monthly reference, no later than by the end of July 2019.

The musicians of the Orchestra of the Tiroler Festspiele Erl

(Copy to: Mr. Marcus Wilhelm, dietiwag.org)

And What About The Management's Reaction On The Orchestra's Claim?

Natascha Muellauer, the new commercial manager in Erl, has obviously launched the compensation of leave entitlement just recently (as „extra financial compensation“). Being asked about the musicians' letter she appeared withdrawn. Mrs Muellauer assumes „that previous holidays were consumed in proper form“. If so: Where? When? Between arrival and departure? Moreover, Mrs Muellauer submits that case-by-case reviews might be „hardly achievable“ for her. Really? According to the law the employer has to keep records of working hours and leave. That's it.

Ich habe in Erl nie Urlaubsgeld bekommen, immer nur diese Tagesgage wie sie im Vertrag steht und wo auch das Urlaubsgeld und sonstiges damit "abgedeckt" ist.

Ich weiß auch von Niemandem, der je extra Urlaubsgeld bekommen hätte! Es war immer nur diese Gage und kein sonstiges Geld.

Letter of a musician who worked in Erl in 2016/17

All kinds of demands of remuneration resulting from employment basically expire within three years at maturity onwards. As a consequence, it might not be doubtful that former members of the orchestra in Erl will claim their demands on „compensatory holiday allowance“ retroactively since they were denied these charges between 2016 and 2018. All in all this is supposed to add up to quite a pretty sum of back pay.

Markus Wilhelm on www.dietiwag.org / 2019/07/27