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EMPLOYMENT TRIBUNALS

Claimant: Miss A Danylyak
Respondent: Stonewell Consulting Limited
Heard at: East London Hearing Centre
On: 5 February 2018
Before: Employment Judge J Brown

Representation

Claimant: Ms H Boyle (FRU)
Respondent: Mr I Wahid (Owner)

JUDGMENT

The judgment of the Tribunal is that:-

1. The Respondent made unlawful deductions from the Claimant's wages.
2. The Respondent shall pay the Claimant £858.32 in compensation for unlawful deductions from wages.

REASONS

1 By claim forms presented on 7 November 2017 and 29 November 2017, the Claimant brought claims of unlawful deductions from wages against the Respondent, her former employer. The Claimant claimed £1,502.48 in unlawful deductions from wages.

2 This final hearing was listed for 3 hours. The Claimant was represented by a Free Representation Unit representative, Ms Henrietta Boyle. The Respondent was represented by Mr Ikram Wahid, who also gave evidence for the Respondent. Both Mr

Wahid and the Claimant had prepared witness statements of the evidence they intended to give to the Tribunal. Mr Ikram Wahid's witness statement was short, on a single piece of A4 paper. It was necessary to ask him a number of questions at the start of his oral evidence, to clarify the evidence he wanted to give.

3 Each party produced a bundle of the documents on which they wished to rely. Some of these documents appeared to be correspondence which referred to negotiations conducted through ACAS. I indicated to the parties that I did not wish to hear about the content of their negotiations through ACAS.

4 Mr Ikram Wahid gave evidence first. He expanded on his evidence in his witness statement for 55 minutes. He was cross-examined by Ms Boyle for one hour. I then gave him the opportunity to clarify any answers that he had given in cross-examination, so that, in effect, he re-examined himself. He did this for a further 30 minutes. Altogether, Mr Ikram Wahid's evidence lasted two and a half hours of a hearing which had been listed for 3 hours.

5 The Claimant then gave evidence. She had provided a very full witness statement, so there was no additional examination-in-chief. Mr Ikram Wahid cross-examined the Claimant from 2.50pm to 3.40pm - for 50 minutes, before walking out of the hearing, saying that he was being discriminated against and was not being allowed to ask questions, or to put forward his case.

6 On a number of occasions in his cross-examination, Mr Ikram Wahid had asked the Claimant questions misrepresenting the documents which were before the Tribunal. The Employment Judge intervened and indicated that Mr Ikram Wahid was misrepresenting the document. However, Mr Ikram Wahid persisted to ask the same questions. He left the hearing when the Judge again intervened. After Mr Ikram Wahid left the Tribunal, the Claimant did not give any further evidence. Ms Boyle summed up briefly. She had already submitted a written skeleton argument, which she had given to the Respondent before the start of the hearing. I reserved my decision.

Findings of Fact

7 The Respondent runs a number of hotels in the London area. It employed the Claimant as a receptionist from 10 June 2017. The Claimant was given a contract of employment, which she signed on 14 June 2017. The contract said that the Claimant's weekly working hours would be 35 and her salary would be £7.50 per hour.

8 The contract provided, under Clause "Quantum/Costs", amongst other things, "*We reserve the right in our absolute discretion to deduct from your pay any sums which you may owe us including, without limitation any overpayment or loans made to you or in respect of any losses suffered by us as a result of negligence or otherwise ... Pay will also be deducted if refund was given to our clients or to any customers or clients or to any agents/suppliers if it is seen that the loss/refund was caused by you. ... Money will be deducted from your wage if there is any corruptions, nepotism, bribery, any similar unethical behaviour. The work must be carried out in pure and just manner without any fear or favour to anyone. (sic)*" Page 34 of the Respondent's bundle.

9 The Claimant was also given a policies and procedures document to sign. She did so on 13 June 2017. That document said, at paragraph 15, *"By signing this document you confirm that you have read and fully understand all the points. You confirm that you are happy with all the points and the company has the right to change/amend the document from time to time."*

10 Various other paragraphs in the document provided as follows:

"4. Have a look at the shift "changeover" sheet and remember that it is your responsibility to make sure that you carry out the shift changeover every time you come on to the shift. Do not take over a shift unless you have gone through the shift changeover sheet and unless you are happy to take over (thus taking all responsibility from the previous person). ...

6. It is very important that when you deal with money that you do the following: ... no refunds are given to anyone no matter what unless it is authorised by the management...

8. You will be responsible for costs (payment will be taken from your wages/pay) if the business has made a loss, if the business had to pay, or it has costs, the business financial loss due to your negligence and failure to follow the employment handbook. For example OTA has charged us commission because you have not updating the extranet etc ...

9. If you see/hear/or have a feeling about "anything" that needs managers attention, then it is your responsibility to make sure that you tell the manager or person in charge of the business immediately without any delay. If it has become clear that after that you knew something but did not inform the management then this could cause costs to you or you could lose your job or be reprimanded. ...

11. No excuses will be accepted if you have not informed the manager of ANYTHING that needs attention. It is your responsibility to make sure that you have tried your best to contact the manager e.g. phone message, text, email, face-to-face, note or any other method. No excuse will be accepted for instance "timing" or "I thought that you already knew" or "I assume that etc ...

13. Help/Assistance/Guidance and advise (sic) will be given to you at all time from management when you ASK. Management team will not know "how much you know" and therefore it is your responsibility to ask. You cannot give the excuse that "no one told me" or "I did not know" and any other similar wording? Help is there 24/7 so you must ask if you are not sure of anything at all. Do not make a guess."

11 In evidence the Claimant told the Tribunal that she had understood the contract to mean that deductions could be made where she was at fault, but not otherwise. Mr Wahid said that the contract meant that any losses caused by the Claimant could be deducted from her wages.

12 It was not in dispute that the Claimant underwent training at the start of her employment. She signed a document on 13 June 2017, saying that she had received a copy of the section from the company Guidelines booklet which was related to her work. Mr Wahid told me that the booklet was about an inch thick. The Respondent did not produce it. He said that the Claimant had been given training on procedures and operating the Respondent's working systems.

13 The Claimant's timesheets were in the Claimant's bundle. From these, it appeared that, during August 2017, the Claimant worked five days a week. From 7 – 13 August 2017 she worked from about 9.00am to about 8.30pm each day. From 14 August to 20 August the Claimant again worked from 9.00am to about 8.30pm on four days and from 7.00am to 3.00pm on the fifth day. The Claimant appeared to have been working, therefore, for 5 days a week, working at least 8 hour shifts, if not 11 ½ hour shifts, each day.

14 On 2 August 2017 the Claimant signed a document entitled, "Deductions of Money Written consent between Stonewall Ltd and (Worker)". The document said that the amount of the deduction was £20 and the reason why the deduction was taking place was, "Neither took the payments of the guests and nor taken security deposit, guest checked out without paying F 191764". Respondent's bundle p39.

15 On 12 August 2017 the Claimant signed a further sheet entitled, "Deductions of Money, Written consent between Stonewall Ltd and (Worker)". The amount of the deduction was stated to be £60 and the reason given was, *"Failed to modify the booking according to the modification and check out the guest on the correct date, leading to an extra day's accommodation being charged on the system. Room held empty for the reservation and did not get sold hence the company incur financial loss."* Page 42 Respondent's bundle.

16 The Claimant is a Ukrainian national and there was some uncertainty about her work visa after September 2017. On 21 August 2017 the Claimant emailed the Respondent's HR department, saying that she had still not received any letter or news from the Home Office and that her visa ended on 19 September 2017. She said, *"I believe that the best option to give you a notice that I will be able to work until 31.08.17 or maximum until 17.09.17. Please confirm until what date you are able to keep me. Thank you"*, page 61 Claimant's bundle.

17 On 27 August a representative of the Respondent sent a message to the Claimant saying that they had spoken to Bilal (the manager at another hotel) and Bilal had told the Respondent that this was the Claimant's last week. The representative asked if Bilal had spoken to the Claimant. The Claimant replied that he had not and asked whether 27 August was the Claimant's last day. The Respondent's representative replied, saying, *"Yes I thought he spoke to you."* The parties agreed that the Claimant's last day at work was 27 August 2017, page 60 Claimant's bundle.

18 The Respondent sent the Claimant a payslip dated 6 September 2017 for her August pay. It showed that the Claimant had worked 200 1/3 hours at a rate of £7.50 so that the Claimant's total gross for the month was £1,502.48 the payslip showed that national insurance payments had been deducted in the sum of £98.88. (In the Tribunal

hearing, the Respondent contended that the payslip showed that there were pension deductions of £15.02; however, the payslip indicated that the employer made that pension payment - it was not deduction from the Claimant's wages).

19 The wage slip also showed a deduction for "tickets charges" in the sum of £1,618.44, so the Claimant's net pay, for 200 hours worked in August 2017, was shown to be minus £214.84. That is, the Claimant owed the Respondent £214.84.

20 At today's hearing, the Respondent contended that it was entitled to make the £1,618.44 deductions from wages because the Claimant had acted in breach of contract in respect of two bookings, in particular, and that the Claimant had not told the Respondent what she had done at the relevant time, so that the Respondent spent time investigating the matter.

21 The Respondent receives bookings through booking.com. There are two different types of booking: refundable bookings and non refundable bookings. The Claimant agreed that, in respect of non refundable bookings, the Respondent's practice is to charge or preauthorise the guest's credit card with the full amount of the booking, at the time that it is made. The Claimant agreed that non refundable bookings are, as their name suggests, non refundable. Mr Wahid explained that guests pay a much reduced room rate when they pay for non refundable bookings.

22 The parties agreed that, on 21 July 2017, a customer "RE" had made a non refundable booking of a double room and a quadruple room, for 4 nights, from Friday 21 July until Monday 24 July 2017, through booking.com. The total cost of that booking was £457.90. The Claimant, however, did not process the payment on customer RE's credit card. She wrote on the booking form, "Didn't have room .. guest didn't want to go to other hotel. We sent on booking.com as a card declined", Respondent's bundle page 43.

23 On about 21 August 2017 booking.com charged the Respondent commission for that booking, even though the guest RE had not stayed and had not paid for the rooms. The commission was £68.69, page 65 Respondent's bundle.

24 Also on 21 July 2017, a customer "LP" had booked two double rooms for 3 nights Friday 21 July - Sunday 23 July 2017, through booking.com. The total cost of that booking was £245.10. Again, it was a non refundable booking.

25 On the original booking form, it can be seen that the name of the person made the booking was different to the name of the person who would be occupying the room, page 45 Respondent's bundle.

26 Again, the Claimant did not charge customer LP's card. Again, booking.com informed the Respondent, on about 21 August 2017, that it was charging commission for those rooms, in the sum of £36.77, page 66 Respondent's bundle.

27 Mr Wahid told me that, on about 21 August, the Respondent became aware of these bookings and commission that had been charged. He told the Tribunal that, about a month after a relevant booking, booking.com normally sends the relevant invoice to the Respondent.

28 It seems that on 28 August 2017, Bilal Jamil, a manager of another hotel in the Respondent's portfolio and the Respondent's HR Manager, sent a message to the Claimant, asking her to come to a meeting, page 59.

29 On 29 August 2017 the Respondent drew up an invoice addressed to the Claimant, charging her for both non refundable bookings in the sums of £457.90 and £245.10 respectively, as well as the £68.68 and £36.76 commissions charged by booking.com, plus a £60 charge for failure to modify a booking, making a total of £868.44, page 56 of the Claimant's bundle.

30 In evidence Mr Wahid, however, said that the commission charged by booking.com is normally paid by the Respondent from the total amount paid by the guest. Thus, even if the guests had paid for the rooms, the commission due to booking.com would have come from the guests' payments. Mr Wahid also said that he accepted that the £60 "failure to modify a booking" charge was not a deduction he was seeking to recover from the Claimant's wages in these proceedings.

31 On 1 September 2017 the Respondent drew up another invoice directed to the Claimant, for a total of £750, page 53 Claimant's bundle. The invoice charged £50 for "Failure to collect money from customer for accommodation provided F191862 .. resulting in customer leaving without paying causing financial loss to the company." It also charged for two "Admin Cost Call Out" charges for "line manager 1" and "line manager 2", each in the sum of £350. The Respondent therefore sought to cover the costs of "administrative call outs" in the sum of £700.

32 Mr Wahid told the Tribunal that it was Mr Jamil who had investigated the booking.com commission charges and the missing reservations. The "Admin Cost Call Out" charges related to work Mr Jamil undertook. Mr Wahid told the Tribunal that Mr Jamil is not paid a salary, but is paid by the hour. He said that Mr Jamil is paid £20 per hour and works about 6 – 7 hours a day, 5 days a week. He said that Mr Jamil is the Respondent's HR Manager.

33 It appeared, therefore, that on 1 September 2017, about 10 days after the Respondent discovered the commission charged by booking.com - and 4 days after Mr Jamil asked to see the Claimant at a meeting - the Respondent drew up invoice, charging the Claimant for 5 complete days of Mr Jamil's working time.

34 At this hearing, the Respondent said that the "Admin Cost Call Out" charges represented the cost to the business of Mr Jamil investigating the missing reservations and the booking.com commission charges.

35 The Respondent said that the Claimant had met with Mr Jamil at about the beginning of September 2017. She was shown the cancelled bookings in respect of the RE booking and said that she did not remember what had happened with the booking and why the card was not charged. In respect of the LP booking, she said she thought the Respondent did not have rooms. The notes of the meeting written by Mr Jamil state, "WE NEED TO TAKE PAYMENT FROM CARD I DID NOT INFORM MY MANAGER ABOUT THIS CASE SO THAT HE COULD HAVE GUIDED ME TO WHAT TO DO.", Respondent Bundle page 46. It appears, from the notes of the meeting, that the Claimant did not

provide any detailed explanation about why the reservations were not charged for.

36 There then appears to have been an extremely lengthy course of communication between the Claimant and Mr Wahid. I did not look in detail at the correspondence, save for some of the comments therein, to which I was specifically directed. The correspondence ran to many, many pages of single-spaced A4 paper and appeared wholly disproportionate to the amount of money and issues involved.

37 At today's hearing the Claimant gave evidence about the reason that she had cancelled the bookings. The Respondent pointed out that the Claimant had only given these detailed explanations many months after bookings were cancelled, despite being unable to give explanations when she was first asked about the relevant bookings.

38 With regard to the LP booking, the Claimant said that the client LP telephoned the hotel, even before the booking had come through to the hotel from booking.com. LP told the Claimant that she had seen, in booking.com's standard terms, that the guests who stayed at the hotel were required to present the same card with which they had made the booking. LP said that she was paying for the booking on her relatives' behalf and that she was not in London herself and would not be coming to the hotel. The Claimant told the Tribunal that she was aware that the hotel did not accept third party bookings and did require customers to produce the same card as the one used to make the booking. She said that the client LP became very upset on the telephone and said that, if she was charged for these rooms, she would not be able to afford to buy other rooms for her relatives in other hotels which did accept third party bookings. The Claimant said that her manager, Shafiq, was on annual leave and that no cover had been arranged for him. She said that the hotel was very busy; it was Friday night; and that other guests were waiting. The Claimant said that she made the best decision she could in the circumstances and agreed that she would not charge LP's card. The Claimant said that she left a note for the night shift, saying that they should not authorise the card because the guests were not going to come. The Claimant also reported to booking.com that the card had been declined, which was not true; but the Claimant did this to save the hotel money. She believed that, if the card was declined, no commission would be charged.

39 The Claimant also gave evidence about the RE booking. She said that the hotel did not have rooms available of the size and description that the client had booked. The Claimant said that the Respondent had never proved that there were rooms of the required size and description available on that night.

40 Mr Wahid drew the Tribunal's attention to an email he had sent the Claimant, page 75 Respondent's bundle, saying that he had checked the records for 21 July 2017 and found that there were 10 rooms empty on 21 July and that there were 7 reservations for customers who were yet to check in at 10.15pm (when the Claimant left her shift). Mr Wahid explained that he had looked at the system himself and had seen these details. He explained that at least two of the rooms, G08 and G22, were quadruple rooms and that many of the G rooms were quadruple rooms. Mr Wahid said that there were five G rooms into which customers had not checked by 10.15pm. Mr Wahid said that it was possible for reception staff to change a room reserved for one customer, to a different room, to provide a room for another customer who arrived at the hotel and wanted to check in.

41 I accepted Mr Wahid's evidence that reservation system showed 10 unsold rooms on the night of 21 July 2017. However, it was not clear to me that any of those unsold rooms were quadruple rooms. I also accepted that there were 7 rooms which had been already reserved for customers who had not checked in by 10.15pm and that at least two of those rooms were potentially quadruple rooms.

42 The Claimant told me that she and her colleague, Nelly, tried to rearrange rooms but could not and that the Claimant asked whether the RE family wanted to stay at another of the Respondent's hotel. She said that they declined and left. The Claimant told the Tribunal that, again, the manager was on holiday and was not available.

43 In evidence, Mr Wahid drew the Tribunal's attention to the Respondent's policies and procedures document, which said that help was available 24/7 and that advice would be given to employees "at all time" from the management, page 37 Respondent's bundle.

44 The Claimant said that she was working in a busy reception and her manager was on holiday leave with no management cover assigned. She said that did not know any other managers in the other hotels and that she took the decision which she thought was best at the time.

45 I accepted the Claimant's explanation as to why she had not charged the relevant credit cards for either of these two non refundable bookings.

46 I found that, in respect of the LP reservation, the client LP was the third party and was not going to attend the hotel with the relevant card. The Claimant's evidence was corroborated by the booking form, which recorded different names for the person making the booking and for the person staying in the rooms. I accepted the Claimant's evidence that she had been told that the hotel did not accept third party bookings, but, rather, required the original card to be presented. I accepted her evidence that she was very busy that evening, that there was no manager present and that she took the best decision she could in the circumstances. I considered that it would have been unrealistic for the Claimant to embark upon a search for advice by text/email/telephone from an unnamed manager in another hotel on a busy Friday night, when the customer required an immediate answer.

47 I also accepted the Claimant's evidence that she believed that there were no rooms available which matched client RE's booking. I noted that, at the time, the Claimant had written on the booking, "Did not have room the guest did not want to go to another hotel. We sent on booking.com as a card declined," Respondent's bundle page 43. The Claimant made clear, on the original booking form, that she had described the situation to booking.com "as a card declined." The Claimant did not record, on the booking form, that the card had actually been declined.

48 While I accepted Mr Wahid's evidence that the hotel booking system showed that there were 10 free rooms on the night, there was no evidence that those 10 free rooms included a quadruple room - or even a double room, which RE had also booked. Furthermore, while I accepted Mr Wahid's evidence that it might have been possible for the reception staff to rearrange rooms which had already been reserved, I accepted the Claimant's evidence that she was very busy and under pressure at reception. I accepted

the Claimant's evidence that the other rooms had already been reserved and that she believed that there were no rooms available of the description the client had booked.

49 It appears that, some time after the Claimant left the Respondent company, the Respondent did make a transfer of £750 to her bank account. This included holiday pay of £315, to which the Claimant was entitled in any event. It also included pay for her notice period of £262.50. It included the sum of £387.34, said to be paid "as a goodwill gesture". I accepted that the £357.34 was paid by the Respondent in the part payment of sums owed by it to the Claimant. I therefore considered that the Respondent had paid some money towards the Claimant's August 2017 wages.

50 In evidence, Mr Wahid said that he did not know how much the Claimant's weekly wage was. He said that he would accept that she would earn £52.50 per day gross, if she worked a 35 hour week, working 5 days a week. That would mean that she worked for 7 hours a day. $7 \times £7.50 = £52.50$. Mr Wahid was reluctant to concede even this. It is apparent from the Claimant's time sheets the Claimant, in fact, worked hours much in excess of that during August 2017. £52.50 is a considerable underestimate of the amount of money that the Claimant earned each day in August 2017

51 Due to the brevity of the Claimant's employment, there was, however, no 12 week reference period over which average weekly pay could be calculated.

Relevant Law

52 By s13 ERA 1996 employees have the right not to suffer unlawful deductions from wages. S13 ERA provides,

"(1) An employer shall not make a deduction from wages of a worker employed by him unless – (a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or (b) the worker has previously signified in writing his agreement or consent to the making of the deduction."

53 Wages are defined in s27 ERA 1996. By s27(1), "In this Part "wages", in relation to a worker, means any sums payable to the worker in connection with his employment, including: a) any fee, bonus, commission, holiday pay or other emolument referable to his employment whether payable under his contract or otherwise. ...".

54 In *Fairfield Limited v Skinner* [1992] ICR 836, EAT, the EAT said that the correct question for the Tribunal to ask was, "Were the deductions that had been made such as were authorised to be made by virtue of any relevant provision in the worker's contract?" Therefore, where there is a dispute as to whether a particular deduction was justified, the Employment Tribunal must resolve that dispute.

55 In commercial contracts, any ambiguity will be construed against the person seeking to rely on it. This principle has been applied in the context of employment law, *Graham Group plc v Garratt* EAT 161/97.

Discussion and Decision

56 The Claimant signed a contract which said that the Respondent had the right, “ ... *in our absolute discretion to deduct from your pay any sums which you may owe us including, without limitation any overpayment or loans made to you or in respect of any losses suffered by us as a result of negligence or otherwise ... Pay will also be deducted if refund was given to our clients or to any customers or clients or to any agents/suppliers if it is seen that the loss/refund was caused by you. ... Money will be deducted from your wage if there is any corruptions, nepotism, bribery, any similar unethical behaviour. The work must be carried out in pure and just manner without any fear or favour to anyone. (sic)*”.

57 The contract appears to have been intended by the drafter of the contract to apply to a very broad range of situations, but it is not written in clear or grammatical terms. Punctuation appears to be lacking. It is very difficult to construe.

58 On one reading of the contract, if a number of words are omitted from the contract, the contract allows the Respondent, in its discretion, to deduct any sums in respect of any losses suffered by the Respondent as a result of negligence, or otherwise, if the loss was caused by the employee. On another reading, the contract appears only allow the employer to deduct sums actually owed by the employee, or where a refund has been given, or where the employee has engaged in some sort of negligent or corrupt activity.

59 The Claimant told me, in evidence, that she had understood the contract to mean that deductions could be made where she was at fault, but not otherwise.

60 I considered that the contract not written in clear, or grammatical, English and that any ambiguity in it should be construed against the employer, who offered the contract.

61 In this case, the Respondent sought to deduct the full amount the non refundable bookings, some £703, representing 94 hours of the Claimant's work.

62 Taking into account the evidence of the Claimant and Mr Wahid, I considered that they both intended that the contract authorised the Respondent to make deductions in respect of losses suffered by it as a result of the negligence, or corruption, or nepotism, or bribery, or unethical behaviour of the Claimant, or where the Claimant had actually given a refund (as opposed to not charging for a booking at the outset).

63 I decided that the other terms of the contract were written in garbled English. I concluded that the words of the contract did not authorise the Respondent to make deductions from the Claimant's wages for losses howsoever they were caused.

64 In addition, I considered that the contracting parties must have intended some reasonable limit on the ability of the Respondent to make deductions from the Claimant's wages, in respect of losses allegedly caused by the Claimant, if the Claimant was not at any significant fault. I decided that the parties did not and could not have intended the contract to authorise the Respondent to make deductions capriciously from the Claimant's wages.

65 That was particularly so, where the losses allegedly caused would result in the employee being paid nothing at all, despite having worked long hours and having

rendered otherwise valuable service.

66 I considered that the Claimant was not negligent in her actions when she did not charge for either of the 21 July 2017 bookings. I accepted there was no suitable room for the client RE, because the possible rooms were already reserved. The Claimant took the rational, justifiable decision not to charge the customer for rooms which were not available. Further I considered that, where the hotel was refusing a method of payment from the customer LP, despite the customer LP being willing and able to make the payment by the credit card, the Claimant again took a wholly rational and justifiable decision not to charge the credit card. I accepted the Claimant's evidence that she had been told that third party payments were not permitted. In neither case could the Claimant be considered to have been negligent.

67 In the case of RE, the Claimant's written explanation to the hotel, in the original booking form, was wholly honest.

68 She was not honest in what she told booking.com. Furthermore, the Claimant did not initially provide the explanation for the RE booking that she has now provided. This may well have prevented the Respondent from recovering the commission fee that booking.com charged. It seemed to me that she was negligent in not having drawn the matter to the Respondent's attention at the time, so that they could challenge booking.com's commission.

69 Similarly, with regard to LP, the Claimant did not report the matter to anyone at the hotel at the time and did not give the explanation when asked about it. Again, the Respondent was unable to challenge the commission charged by booking.com. The Claimant clearly did know why those bookings were cancelled by her, but did not tell the Respondent at the time. I decided that she was also not honest or open regarding the LP booking, in that she said the card had been declined.

70 To that extent, I considered that the Claimant's conduct fell below that of a reasonable person. She was negligent and losses caused by that negligence were authorised by the contract to be recoverable by way of deductions from her wages.

71 The losses caused by the Claimant's failure to tell the Respondent about the true reasons for cancelling the 21 July 2017 were therefore the commissions charged by booking.com. I considered that both the booking.com commission charges were properly deductible from the Claimant's wages, due to her negligent failure to tell the Respondent the full facts at the time.

72 The Respondent sought to invoice the Claimant £700 in respect of Mr Jamil's work. It did so on 1 September 2017, when Mr Jamil had only been involved investigating the matter since 28 August. Mr Wahid said that the £700 was not a strict calculation of Mr Jamil's time. I considered that the £700 charge bore absolutely no relation at all to the amount of time that Mr Jamil could possibly have invested in investigating the matter. In the event, it seemed to me that it would be within Mr Jamil's normal job duties, as an HR manager, to investigate anomalies in the booking system with relevant employees. There was no evidence that the Respondent incurred extra expense in investigating the matter. I rejected any suggestion that £700 was a true reflection of the amount of time that Mr Jamil

spent, or could reasonably have spent, investigating this matter. In so far as Mr Jamil or Mr Wahid spent many hours thereafter investigating the matter it, I decided that the time spent was grossly disproportionate to the loss the hotel had suffered. It would be completely inappropriate for the Respondent to recover such sums from the Claimant's wages.

73 The Respondent did pay the Claimant £387.34, which needed to be deducted from the amount of money owing to the Claimant. I also accepted that the Respondent paid her for more than 4 days pay when it paid notice pay of £262.50. Four days pay would have been £210 and the Respondent therefore overpaid the Claimant by £52.50. I considered that that, too, was, in reality, a part payment of her August 2017 wages. £52.50 should also be deducted from the amount owing to the Claimant.

74 The Respondent's payments of national insurance payments should be deducted, to arrive at the net sum due to the Claimant.

75 The Claimant's gross pay for August 2017 was £1,502.48. National insurance payments were deducted in the sum of £98.88. The Respondent was entitled to deduct £68.68 and £36.76, total £105.44, for the booking.com commission. It had already paid the Claimant £387.34 + £52.50 = £439.84 on account of her August 2017 wages. The net amount of wages owing by the Respondent to the Claimant for her August 2017 wages is £858.32.

76 The Respondent is ordered to pay the Claimant £858.32 on account of unlawful deductions from wages.

Employment Judge Brown

22 February 2018