



EMPLOYMENT TRIBUNALS

Claimant: Mrs D J Oliver

Respondent: Catch22buses Limited

REASONS

Reasons have been requested by the respondent.

Background.

By an ET1 presented to the Tribunal on 25 October 2017 the claimant brought claims of unlawful deductions from wages, discrimination on the grounds of sexual orientation, breach of contract, and unpaid annual leave. At the Hearing she was given leave to withdraw the claim of discrimination on the grounds of sexual orientation, and to introduce a claim of sex discrimination. Later in the Hearing she withdrew her claims of sex discrimination and unpaid holiday pay.

Evidence

I heard evidence from the claimant. There was no attendance by the respondent who had failed to acknowledge the ET1, had not presented an ET3, and failed, despite being given notice, to attend the hearing. The claimant's account was credible, and I applied the evidential test 'the balance of probabilities' to the evidence.

Facts

The claimant was employed by the respondent as a bus driver from the 26 August 2016. She worked a month in hand.

She had difficulty obtaining her wages from the outset. On the 4 October 2016 she received just £400.00. Thereafter she received £1200 a month net.

On 22 May 2017 she was assaulted by a colleague. She was signed off on sick leave. She was befriended by her assailant and they are now partners. She was dismissed by the respondent whilst on sickness absence on 10 August 2017.

She is still owed wages for the six weeks in hand that she worked.

Money had been taken from her wages for damage to a bus in the sum of £289.76. She has never signed any document authorising such a deduction from her wages.

Law

s.13 Employment Rights Act 1996

13 (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 workers contract or
- (b) the worker has previously signified in writing his agreement or consent to the making of the deduction

Conclusions

Any deduction from the claimant's wages for damage caused in an accident is unlawful unless she has previously signified her consent in writing to the making of the deduction. The claimant had not so signified and thus the deduction is unlawful.

The claimant was paid £1200 net per month. She worked 6 weeks in hand without payment and is owed a total of £1800, less £400.00 paid on 4 October 2016. She did not signify her consent to this deduction, in writing and it is thus unlawful.

Employment Judge Warren

Date: 4 June 2018 (Reasons)

JUDGMENT SENT TO THE PARTIES ON

16 June 2018

AND ENTERED IN THE REGISTER

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FOR THE TRIBUNAL OFFICE