



EMPLOYMENT TRIBUNALS

Claimant: Mrs S Barlow

Respondent: Bliss Support Limited

Heard at: Nottingham **On:** Friday 15 June 2018

Before: Employment Judge Macmillan (sitting alone)

Representatives

Claimant: In Person

Respondent: Did Not Attend

REMEDY JUDGMENT

1. The Respondents have made unauthorised deductions from the Claimant's wages. The Respondents are ordered to pay the Claimant compensation in the sum of £3,117.29 (of which £693.33 is net of tax and NIC).
2. The Respondents have failed to pay the Claimant holiday pay. The Respondents are ordered to pay the Claimant compensation in the sum of £1,299.37.
3. The Respondents will pay the Claimant damages for breach of contract (notice pay) in the sum of £2,241.50.

REASONS

1. On 11 April 2018 a judgment in default of a response was issued in the Claimant's favour. Unfortunately, because of the way the claim form was drafted it was not possible to deal with remedy in the same judgment and this remedy hearing was therefore listed. I have now heard evidence from Mrs Barlow who has produced some of her wage slips. I accept Mrs Barlow's evidence.
2. The Respondents have made a number of unauthorised deductions from Mrs Barlow's wages. On 21 August 2017 she received a payslip for the 4 week period ending on that date. This showed that the net pay due to her for that period was £2,182.02 but only £1,542.69 was paid into her bank account. There was therefore an unauthorised deduction from her wages in the sum of **£639.33** net.

3. Mrs Barlow was employed by the Respondents as a carer. This regularly required her to sleep over at client's premises. For a lengthy period of time she was paid only £47.44 for the 8 hour sleep over period. That sum was less than the national minimum wage per hour to which she was entitled as she was in fact working for all the hours of the sleepover. The amount to which she was entitled for each sleepover was £57.60 resulting in a shortfall of £10.16 gross for each sleepover. Mrs Barlow claims in respect of 59 such sleepovers. I am satisfied that in respect of these sleepovers the Respondents have made a further unauthorised deduction from her wages in the sum of $59 \times £10.16 = \mathbf{£599.44}$ gross.

4. Mrs Barlow worked 2 weeks in hand. In other words, at the end of her first 6 weeks of employment with the Respondents she was paid for only 4 weeks. Therefore when her employment was summarily terminated by the Respondents on 8 September 2017 they owed her for her last 2 weeks of work. During that period she did 62 hours of weekday working which are remunerated at £8.25 an hour (£511.50); 28 hours of weekend working which are remunerated at £9.25 an hour (£259.00) and 6 sleepovers each of which are remunerated at £57.60 (£345.60). In failing to pay her for her 2 weeks in hand the Respondents have made another unauthorised deduction from her wages in the total sum of **£1,116.10** gross and the Respondents are ordered to pay that sum to her by way of compensation.

5. In the summer of 2014 the Respondents required its employees to join a pension scheme. The Respondents made the relevant arrangements and deducted the contributions from each employee's wages. Mrs Barlow has discovered that none of the deductions which the Respondents made ostensibly as contributions to her pension were paid over to the pension provider. They were retained by the Respondents for their own use. Those originally authorised deductions thereby became unauthorised and Mrs Barlow is entitled to compensation in respect of them in the sum of **£762.42**.

6. The total compensation to which Mrs Barlow is entitled for the various unauthorised deductions from wages is therefore **£3,117.29** of which **£639.33** is net and the balance is gross.

Holiday Pay

6. When Mrs Barlow's employment was summarily terminated she had accrued the right to 157.5 hours of holiday at £8.25 an hour. Nothing has been paid to her by the Respondents to compensate her for this untaken holiday and the Respondents are therefore ordered to pay her compensation in the sum of $157.5 \times £8.25 = \mathbf{£1,299.37}$.

Notice Pay

7. Mrs Barlow commenced employment for the Respondents on 10 September 2010 and she was summarily dismissed on 8 September 2017, one day short of 7 years' continuous employment. She was therefore entitled to 6 weeks' notice of the termination of her employment or to a payment in lieu. She received neither. The Respondents are therefore in breach of contract and Mrs Barlow is entitled to damages. The damages are the net earnings that she would have received during the notice period.

8. This falls to be calculated by reference to the net earnings that she received in the 12 week period running up to the date of dismissal. Relying on her wage slips, even though there is some concern about their accuracy, Mrs Barlow was paid an average of £373.59 net per week. The damages for breach of contract in dismissing her without notice which the Respondents are ordered to pay to her is therefore $6 \times £373.59 = \mathbf{£2,241.58}$.

Employment Judge Macmillan
Date: 13th July 2018

JUDGMENT SENT TO THE PARTIES ON

16 July 2018

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FOR THE TRIBUNAL OFFICE