



EMPLOYMENT TRIBUNALS

Claimant: Mr H Burke
Respondent: Patrick Hall
Heard at: Ashford
On: 17 December 2018
Before: Employment Judge Pritchard

Representation
Claimant: In person
Respondent: No appearance

JUDGMENT

The Respondent made unauthorised deductions from the Claimant's wages and the Respondent is ordered to pay to the Claimant the sum of £730.00

REASONS

- 1 The Respondent failed to attend the Tribunal at the time allotted for the hearing. Upon telephone enquiry, the Respondent told the Clerk to the Tribunal that he did not know about the hearing and that he would call back in 30 minutes. He failed to do so. The Claimant pointed out that the Respondent had known about a previous hearing date which had been listed (because he had asked for a postponement which had been granted) and thought it likely that the Respondent must have known about today's hearing and was now giving him "the run around". I noted that the Notice of Hearing had been sent to the Respondent correctly addressed and I proceeded with the hearing in the Respondent's absence as permitted under Rule 47.
- 2 The Claimant asserts that he was a worker engaged by the Respondent (within the meaning of section 230 of the Employment Rights Act 1996 such that he has the right to claim unauthorised deductions from wages).
- 3 As a preliminary point, I was concerned as to whether the Claimant had presented his claim within the statutory time limits set out in 23 of the Act. However, the Claimant told me that he had agreed to allow the

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Respondent until the middle of February 2018 to make the payment due. In the absence of any challenge, I accept that must be correct. Time therefore runs from the date of expected payment. The Claimant contacted ACAS on 11 May 2018 which is within the 3 month time limit and he presented his claim to the Tribunal within the statutory time limit as extended by the ACAS Early Conciliation Procedure.

- 4 The Claimant told me that he had entered into an oral agreement with the Respondent to undertake plastering work. He is owed for four days work at £150 per day and for one day's local work at £130.
- 5 Section 13 of the Act provides that an employer must not make a deduction from a worker's wages employed by him unless the deduction is required by statute, under a relevant provision in a worker's contract, or the worker has previously signified his written agreement or consent to the making of the deduction. A deficiency in the payment of wages properly payable is a deduction for the purposes of this section.
- 6 There was no written agreement in place or written authorisation for the deduction.
- 7 Judgment is entered accordingly.

Employment Judge Pritchard

Date 17 December 2018