

**EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 4103232/2018 Held at Glasgow on 23 May 2018**

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**Employment Judge Shona MacLean**

**Mr R Scott**

**Claimant  
In Person**

**City Technical Services (UK) Limited**

**Respondent  
Represented by:  
Mr I MacLean  
Consultant**

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**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The Judgment of the Employment Tribunal is that the claim is dismissed.

**REASONS**

**Introduction**

1. In the claim form the claimant complains that after his employment terminated the respondent made deductions from his wages which were unlawful.
2. The respondent admits making deductions from the claimant's final wages. The respondent says that the deductions were authorised by the claimant in writing and were justified.
3. The parties provided a joint set of productions. The claimant gave evidence on his own account. Andrew Daly, Operations Manager gave evidence for the respondent.

**E.T Z4 (WR)**

4. While the claimant could not recall receiving a copy of the written terms and conditions of employment around August 2014, he confirmed that he had read and sign terms and conditions of employment (production 32). He also confirmed having signed a document confirming that he understood module 9 parts & procurement (production 33). The claimant accepted that he had authorised the respondent in writing to make deductions from his wages. The claimant also accepted that in relation to the van retainer no further sums were due to him. It was agreed that the sum £567.05 was deducted by the respondent from the claimant's final salary.
5. In these circumstances the issue was whether the actual deduction was justified.
6. The Tribunal found the following facts to be established or agreed.

### **Findings in Fact**

7. The respondent employed the claimant as a gas service and maintenance engineer from 3 March 2014 until 5 October 2017.
8. On 9 April 2014 as part of his induction the claimant signed that he understood module 9 parts & procurement (the Process) (production 33).
9. Engineers use an electronic tablet on jobs. According to the Process when parts from the engineer's vanstock are used the engineer is instructed to use the tablet to issue the parts to the job. It is recommended that engineers also keep a manual note of parts used and ideally keep a diary.
10. If the part is ordered, then according to the Process once it has been fitted to the job, the status of the part is to be changed using the tablet from "ordered" to "fitted". If the part has been collected but the engineer was unable to fit it or only some parts were fitted, only those parts that have been fitted are issued to the job. The engineer will receive a text reminder to return unfitted parts for credit and those parts will be added to the engineer's returns tracker. If the engineer is unable to provide proof of return or fitting, the engineer will be charged for the cost of the part. The engineer fills out a returns notification form when returning parts. Only when

the return notification is received as proof of return will the details be removed from the returns tracker. The engineer is responsible for every part he signs for therefore engineers are informed that it is in their best interest to take care of every part and keep their own copies own returns notification forms.

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11. The claimant signed the statement of terms of employment on 18 August 2014. It provides that on termination of employment the claimant agrees that the respondent has the right to make deductions from his salary in circumstances where there has been any reason whatsoever an overpayment of remuneration, expenses or other emoluments or in respect of any other deductions as the claimant may authorise from time to time. It also provides that the claimant agrees that deductions may be made to reimburse the respondent the damage caused to the respondent's property under his control whether by negligence or otherwise, or in respect of goods, materials, tools and/or services misused or misapplied by him or by persons under his control.

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12. The respondent's engineers had access to a tracker portal via their tablets. One tracker portal was for parts already returned (awaiting proof of return) (production 62). The other was for parts to be returned (production 64). During tool box discussions engineers were reminded that they had responsibility for ensuring parts were returned and the appropriate documentation was completed. They were also reminded about the respondent's right to deduct the cost of parts which were unaccounted for.

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13. The claimant knew that the respondent had the right to deduct the cost of parts which were unaccounted for. He was also aware that the respondent was known for making such deductions when employees left its employment.

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14. The claimant resigned and gave a week's notice that expired on 5 October 2018. The claimant met Mr Daly on or around 2 October 2018 for an exit meeting. Mr Daly showed the claimant his tracker portal. The claimant was advised that there would be deductions from his final salary. The claimant spoke to a colleague in the parts centre who checked the paperwork.

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15. The claimant was paid his final salary on 28 October 2018. The respondent deducted £567.05 in respect of missing stock.

16. The claimant made enquires of some customers who confirmed that work had been carried out and parts installed. The claimant also raised a grievance saying that the respondent's tracker portal was incomplete and inaccurate. The respondent maintained that it was authorised to make the deduction; the claimant was responsible for providing proof of return and had not done so.

*Observations on witnesses and conflict of evidence*

17. In my view the claimant gave his evidence honestly and candidly. I had considerable sympathy for the situation in which he found himself. However, he had authorised the respondent to make deductions from his wages and was aware of the respondent's practice in relation to making deductions from final salaries.

18. Mr Daly was a credible and reliable witness. I did not consider that he had any animosity towards the claimant and felt that had the claimant been able to provide the required documentation proving return of the parts, Mr Daly would have accepted this. My impression was that the respondent had a rather cavalier approach to missing stock while it employed an engineer in the knowledge that it had authority to make deductions when the engineer's employment terminated. This was common knowledge among the engineers who took this into account when giving notice.

19. The main conflict of evidence related to whether the claimant had access to the tracker portal via his tablet. The claimant said that until the exit meeting on 2 October 2017 he had not seen the tracker portal (productions 62 to 64). Mr Daly said that engineers' tracker portals were updated electronically using information provided (or not) by the engineer and were accessed via the tablet.

20. Given that the claimant seemed genuinely surprised at seeing the documents at the exit meeting I thought it was plausible that he did not look

at the tracker portal on his tablet. However, I considered that it was highly likely that tracker portal was accessible though the tablet given the Process involved in ordering and returning the parts and recording by using the tablet. It also seemed pointless to collate this information and not share it with the engineers.

21. I accepted that the system was not infallible as it relied on engineers inputting information accurately and timeously. For that reason, the Process encouraged engineers to keep copies on return notifications and diary entries.

22. While the claimant produced documents signed by customers saying that certain parts had been fitted there was a lack of clarity as to when they were fitted and by whom. Other than the tracker portal there was no other contemporaneous documentation. For example, a part (which was ordered in December 2016) was not fitted in January 2017 because the claimant could not get access. There was no record of it having been returned. The part appeared on the tracker portal on 24 April 2017 to be returned (production 64). After the claimant resigned the customer signed a form saying that the part was fitted (production 86). If the part was not fitted in January 2017 it should have been returned. No returns notification was produced. If the customer subsequently had the part fitted it should have been reissued to the engineer and the engineer should have issued the part to that job. That was not reflected in the tracker portal. No other documentation was produced to clarify that the part had been returned, reissued and then fitted and to the job.

## **Deliberations**

23. The issue to be determined was whether the actual deduction was justified. As mentioned I had considerable sympathy for the claimant who realised on 2 October 2017 that the respondent was proposing to deduct the value of parts which according to the tracker portal were missing. However, I considered that had he wished to so do he could have accessed his tracker portal and queried the information during his employment. The claimant could also have kept his copies of return notifications especially if he was

concerned about the accuracy of the information on the tracker portal. Had the claimant done this he would have been able to challenge the information held on the tracker portal.

5 24. I appreciated that the engineers were in control of parts and the respondent relied on them to input information via the tablet about parts ordered, fitted or returned. It was therefore understandable that the respondent should seek authority to make deductions from wages when parts were “missing”. I accepted that the respondent encouraged its engineers to keep copies of the return notifications but considered that it was unfortunate that steps to deduct the costs of missing parts took place so long after they apparently went missing. Had deductions from wages been considered earlier then the claimant would have been better placed to recall the jobs and provide supporting documentation. It might also encourage engineers to be more diligent in their recording and record keeping.

15 25. While I felt that the respondent had acted harshly by delaying deductions and making a one-off deduction for stock missing over a year I could not conclude on the evidence before me that the deduction was unjustified. Accordingly, I dismissed the claim.

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Employment Judge: Shona MacLean  
Date of Judgment: 24 May 2018  
Entered in register: 31 May 2018  
25 and copied to parties