



## **EMPLOYMENT TRIBUNALS (SCOTLAND)**

5

Case No: S/4112960/18 Held at Aberdeen on 4 February 2019

Employment Judge: Mr N M Hosie (sitting alone)

10

Ms Alexandra Kelman

Claimant

Represented by:  
Mr F H Lefevre –  
Solicitor

15

The Platinum Lounge Aberdeen Ltd

Respondent  
No Appearance

20

## **JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

25

The Judgment of the Tribunal is that:-

30

1. the claim under s.23 of the Employment Rights Act 1996 is well-founded and the respondent shall pay to the claimant the sum of One Thousand and Seventy-Seven Pounds and Eighty Pence (£1,077.80) as an unlawful deduction from wages;
2. the claim for holiday pay is well-founded and the respondent shall pay to the claimant the sum of Two Hundred and Fifty-Three Pounds and Sixty Pence (£253.60) as a payment in lieu of annual leave.

35

**REASONS****Introduction**

- 5 1. The claimant brought a claim in which she sought payment of outstanding wages and holiday pay from the respondent Company. The respondent accepted that it was due to pay the claimant wages but denied that she was due the sum she claimed. It also denied any liability for holiday pay.
  
- 10 2. After various procedures, a Final Hearing was fixed for 4 February 2019 in Aberdeen. A Notice of Hearing was sent to both parties by the Tribunal on 4 December 2018 and thereafter there was further correspondence with the parties by e-mail.
  
- 15 3. The claimant appeared at the Tribunal office on 4 February along with a witness and her solicitor, Mr Lefevre, in time for the 10am start. Mr Lefevre confirmed that he was ready to proceed. However, there was no appearance on behalf of the respondent. There was no communication by e-mail, telephone or otherwise to advise the Tribunal that the respondent would not  
20 be represented at the Hearing.
  
4. The Tribunal Clerk telephoned the respondent's principal and representative, Keith Clark, but she was unable to make contact. However, she left a voicemail to remind him that the Tribunal Hearing was scheduled to  
25 commence at 10am that day.
  
5. There was nothing to suggest that the respondent had not received the Notice of Hearing and when there was still no appearance on behalf of the respondent and still no contact by 10.30am, I decided to proceed with the  
30 Hearing.

**The Evidence**

6. I heard evidence from the claimant. Her solicitor also lodged a bundle of documentary productions (“P”). Although there was no appearance on behalf of the respondent I had regard to the terms of the ET3 Response Form and the further particulars which the respondent’s representative submitted by e-mail on 2 December 2018.

**The Facts**

7. The claimant gave her evidence in a measured, consistent and thoroughly convincing manner. Her evidence was consistent with the documentary productions. She presented as entirely credible and reliable.
8. Having heard the evidence and considered the documentary productions, the ET3 Response Form and the respondent’s further particulars, I was able to make the following material findings in fact, relevant to the issues with which I was concerned.
9. The claimant has many years’ experience as a Hairdresser. She commenced her employment with the respondent as a “Senior Stylist” on 1 May 2018. Her Contract of Employment was one of the productions (P.25).
10. There had been some doubt as to the correct identity of the respondent but it was clear from the Contract that it was “The Platinum Lounge Aberdeen Ltd”.
11. On 23 June 2018, the claimant was spoken to aggressively at work by Elaine Tompkins, the sister of the respondent’s principal, Keith Clark. When Ms Tompkins told the claimant to “get to fuck” she left.
12. She sent a phone message to Mr Clark to complain about the way she had been spoken to (P.20) and delivered a letter to him subsequently to ask if he

would confirm that she had been dismissed (P.18/19). She did not receive a reply. She did not return to work for the respondent.

### **Quantification of the Claim**

5

13. Helpfully, the claimant's solicitor included with the productions a "Quantification of Loss" (P.30/31) which, on the evidence, I was satisfied was accurate.

### **Wages**

10

14. The claimant received her wages in May but did not receive any wages for the period from 1 to 23 June 2018. In that period, I was satisfied that she worked a total of 17 days. It was based not only on her evidence, but on a contemporaneous record of her hours of work which she kept on her mobile phone (P.31). Her net weekly salary was £317. She worked a 5-day week and accordingly earned £63.40 each day. This means that for the 17 days that she worked in June she was due wages of **£1,077.80** and this sum now requires to be paid to her by the respondent.

15

### **Holiday Pay**

20

15. The claimant did not take any holidays when she was employed by the respondent. In terms of her Contract of Employment, she was entitled to 28 days' paid holidays each year (P25). When her employment ended, therefore, she had accrued 4 days of her annual entitlement. She is due a further payment by the respondent, therefore, of **£253.60** in this regard (4 x £63.40).

25

**Employment Judge: Nicol Hosie**  
**Date of Judgment: 05 February 2019**  
**Entered in Register: 06 February 2019**  
**And Copied to Parties**

30