



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4112728/2018

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**Held in Glasgow on 10 October 2018 (Final Hearing); and
2 November 2018 (Written Representations)**

Employment Judge: Ian McPherson

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Mrs Marie Kelly

**Claimant
Represented by:
Mr John Kelly -
Husband**

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Ladbrokes Betting & Gaming Ltd

**Respondents
No appearance and
Not represented**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

25 Further to the liability only Judgment issued on 28 September 2018, under **Rule 21**
of the Employment Tribunals Rules of Procedure 2013, and having heard the
claimant's representative at this Remedy Hearing, and considered additional
information and documents, as written representations received post Hearing, after
private deliberation, in chambers, the Remedy Judgment of the Employment
30 Tribunal is that:

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- (1) In light of additional information received, and in terms of **Rule 34 of the**
Employment Tribunals Rules of Procedure 2013, the Tribunal
substitutes Ladbrokes Betting & Gaming Ltd as the proper respondent in
these Tribunal proceedings, being satisfied, on the information now
available, that that limited company is the claimant's employer, and
accordingly **removes** Ladbrokes Coral Betting Gaming Ltd, as named by
the claimant in the ET1, there being no such company, and **directs** the

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clerk of the Tribunal to amend the identity of the respondents in the Tribunal's records, and serve this Judgment on the respondents at their registered office, being 3rd Floor, One New Change, London, EC4M 9AF.

5 (2) Further, being satisfied, on the information available, that the respondents have unlawfully deducted the sum of **£1000 (ONE THOUSAND POUNDS)** from the claimant's wages, the Tribunal **orders** that the respondents shall pay that sum to the claimant.

10 (3) There now being no claim pursued by the claimant for any additional amount in respect of any financial loss sustained by her which is attributable to the matter complained of, as previously indicated in her representative's e-mail to the Tribunal of 25 September 2018, the Tribunal makes no further award of any compensation to the claimant in terms of
15 **Section 24(2) of the Employment Rights Act 1996.**

(4) Finally, in terms of Rules **75, 76 and 79 of the Employment Tribunals Rules of Procedure 2013**, the Tribunal makes a Preparation Time Order in favour of the claimant and **orders** the respondents to pay to her an
20 additional sum of **£133 (ONE HUNDRED AND THIRTY-THREE POUNDS).**

REASONS

Introduction

1. Following ACAS early conciliation between 31 May and 1 July 2018, the
25 claimant, acting on her own behalf, presented an ET1 claim form, on 23 July 2018, against the respondents, then designed as Ladbrokes Coral Betting Gaming Limited of Imperial House, Imperial Drive, Rayners Lane, Harrow, London, HA2 7JW, complaining of the respondents' failure to pay her full month's pay for the month of May 2018 in the sum of **£1,000.**

30 2. On 30 July 2018, that claim was accepted by the Tribunal, and Notice of Claim, and Notice of Final Hearing on Wednesday, 10 October 2018, at

11.30am, were sent to the respondents, at the address stated on the ET1 claim form, requiring them to lodge a response by 27 August 2018, if they wished to resist the claim. No ET3 response was lodged by the respondents by the due date of 27 August 2018, or at all.

5 **Further information required from the claimant**

3. On 5 September 2018, Employment Judge Jane Garvie, noting that no response to the claim had been received, decided that it was possible for the Tribunal to issue a Judgment in the claimant's favour without the need for a Hearing but, however, she considered that there was insufficient information
10 to issue a Judgment at that stage, and she required the claimant to provide information, by 13 September 2018, clarifying how much was claimed for unpaid wages, so as to allow a Judgment to be issued.

4. Thereafter, the claimant, acting through her husband, Mr John Kelly, provided
15 additional information to the Tribunal, by way of emails dated 12, 17, and 25 September 2018, Mr Kelly's email of that latter date clarified that the claimant was seeking **£1,000** loss of earnings for the month of May 2018, plus further sums in respect of borrowings and living expenses, and also intimating a claim for a Preparation Time Order at a minimum of 10 hours x £32 per hour.

20 **Rule 21 Judgment**

5. On 27 September 2018, in respect that no response had been presented within the relevant time limit, I issued a **Rule 21** Default Judgment that the claimant's complaint of unlawful deduction from wages succeeded, and that the remedy to which she is entitled would be determined at the Hearing fixed
25 for 10 October 2018.

6. I decided that on the available material a determination could properly be made without a Hearing as to the liability of the respondents for the claim, but that the remedy to which the claimant is entitled for the claim would be
30 determined by an Employment Judge at a Hearing.

7. On 28 September 2018, my Judgment of 27 September 2018 was issued by the Tribunal to both parties, without a Hearing, and the covering letter from the Tribunal confirming that as the Judgment dealt with liability only, the Hearing listed for 10 October 2018 would be converted to deal with remedy only.
8. The letter of 28 September 2018, sent to the respondents, advised that if they now wished to defend the claim, they would, in addition to the right to apply for reconsideration, within 14 days, in the interest of justice, also have to apply for an extension of time to submit their ET3 response or, if they believed the Judgment was wrong in law, they might appeal to the Employment Appeal Tribunal within 42 days of issue of the Judgment.

Remedy Hearing

9. While my Judgment clearly stated that the claimant's remedy would be determined at the Hearing fixed for Wednesday, 10 October 2018, the Tribunal administration, in error, issued a Notice of Remedy Hearing, dated 1 October 2018, assigning a one-hour Remedy Hearing on 14 November 2018.
10. That Notice of Remedy Hearing was sent to the claimant's representative, Mr Kelly, as also to the respondents, again at the address shown on the ET1 claim form. The notice sent to the respondents was sent to them for information only, as while they would be entitled to attend the Remedy Hearing, they would only be able to participate to the extent permitted by the Employment Judge hearing the case.
11. Thereafter, on 2 October 2018, an amended Notice of Remedy Hearing was issued to both the claimant's representative, and the respondents, confirming that the Remedy Hearing would proceed, as ordered in the Judgment, on 10 October 2018.
12. When the case called before me on the morning of Wednesday, 10 October 2018, at 10am, the claimant was not in attendance, being unwell, but she was

represented by her husband, Mr Kelly, who had been acting as her representative, and corresponding with the Tribunal.

5 13. The respondents, not having defended the claim, were neither present nor represented at this remedy hearing. In any event, in accordance with **Rule 21 (3) of the Employment Tribunal Rules of Procedure 2013**, while they were entitled to notice of this Hearing, and any decision of the Tribunal, unless and until an extension of time had been granted, they would only be entitled to participate in this Hearing to the extent permitted by the presiding Judge.

10 14. My Liability Judgment having been issued previously, the matter before the Tribunal was only the appropriate remedy for the claimant. In the absence of the claimant, but with information provided by her husband, as her representative, I was provided with certain information, on the basis of which
15 I decided that, in the interests of justice, it was appropriate to reserve my remedy Judgment, pending receipt of additional information and documents from Mr Kelly, as the respondent's representative within the following 7 days.

20 15. As no evidence was heard at this Remedy Hearing, and I have considered the additional information/documents produced, as written representations from the claimant's representative, there are no findings in fact made by this Tribunal.

25 16. I have, however, in considering the additional information/documents provided, taken them into account, together with all information available to me in the Tribunal's case file, being the ET1 claim form, and correspondence with the claimant's representative, following the Tribunal's request for further information before the **Rule 21** Judgment could be issued in the claimant's favour.

30 **Further information provided on the claimant's behalf**

17. Following close of the Remedy Hearing, when I reserved my Judgment, a letter was sent, on my instructions, to the claimant's representative, at the

claimant's new address, which has now been noted, and updated on the Tribunal's records.

Proper Identity of the claimant's employer

5 18. A search of the Companies House website showed that there are two companies, with similar names, namely **Ladbrokes Betting & Gaming Limited**, and **Ladbrokes Coral Group Limited**, as per the copy search sheets from the Companies House website provided to the claimant's representative at the Hearing, but at a different registered address.

10 19. It was not clear to the Tribunal, on the information available to me as the Judge on 10 October 2018, whether it was either/or of them, or some other company altogether. As such, the claimant's representative was instructed to provide documentation to the Tribunal showing the proper name of the claimant's employer, as Companies House has no company registered under
15 the name on the ET1, being **Ladbrokes Coral Betting Gaming Limited**.

20. Further, subject to clarification of the proper identity of the claimant's employer, for example by production of copy contract of employment, written
20 particulars of employment, P60, or other correspondence from the employer as the copy payslip provided by the claimant's representative to the Tribunal only shows "**Ladbrokes**" (which is a trading style, and not a registered company name), the claimant's representative was advised that the Judge, on receipt of additional information, might be able, under **Rule 34 of the Employment Tribunal Rules of Procedure 2013**, to add, substitute or
25 remove a respondent, to properly address the true identity of the claimant's employer for the purposes of the Remedy Judgment.

21. Thereafter, by email of 11 October 2018, the claimant's representative, Mr
30 Kelly, provided to the Tribunal documents relating to the claimant's contract, bank statements, and payslip, all of which additional information/documents, was acknowledged by the Tribunal on 19 October 2018.

22. The claimant's representative was sent an email from the Tribunal, on 19 October 2018, advising that his correspondence had been referred to me, and that I had directed that it be placed on case file, and that a written Judgment and reasons would follow as soon as possible, however I would be
5 on annual leave for the following week, and therefore it would not be issued until sometime after my return from leave. I considered the case further, in chambers, on Friday, 2 November 2018

Disposal

23. Having now had the opportunity, in chambers, to review the additional
10 information/documentation by the claimant's representative, I have decided that it is appropriate to issue Judgment in the terms set forth above.

24. Having noted the terms of the letter of 6 September 2017 from Andy Hicks, Retail Operations Director, Ladbrokes Coral Group PLC, to the claimant, relating to her appointment, from 2 October 2017, as a Customer Services
15 Manager, it states that: "***you will continue to be employed by Ladbrokes Betting & Gaming Limited and your continuous service is also unaffected. Attached to that letter, there is a statement of main terms and conditions of employment, confirming the employer as Ladbrokes Betting & Gaming Limited.***"
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25. In the circumstances, I am satisfied that it is appropriate for me to substitute Ladbrokes Betting & Gaming Limited as the proper respondent, and I have so ordered, and I have had the Tribunal's record updated, to show that company
25 as the proper respondent, and for this Judgment to be served on them at their registered office address as per Companies House.

26. It is my view that they are the appropriate respondent, as employer, and my view is fortified by sight of a copy of the claimant's bank statements, from
30 Barclays Bank, showing that named company have made payments into her bank account, by way of BACS transfer payments, on various dates between 12 January and 31 May 2018, but the last such payment vouched by the bank

statement produced is a payment of £573.77 made to the claimant's account on 11 April 2018.

27. Her bank account statement produced to the Tribunal shows no payments made to her from Ladbrokes Betting & Gaming Limited in the month of May 2018. As the sum of **£1,000** sued for by the claimant is not disputed by the respondents, who have not lodged any ET3 response, I have ordered the respondents to pay that sum to the claimant.

10 **Preparation Time Order**

28. As regards the application for a Preparation Time Order, I discussed this with Mr Kelly at the Remedy Hearing, on 10 October 2018, when he advised me about the steps he had to take, on the claimant's behalf, to deal with this matter, on his wife's behalf, and to prosecute this claim for her before the Tribunal.

29. While he indicated that he had probably spent a lot more than 10 hours, going back and forward to ACAS, during the early conciliation process, in gathering information, and printing off papers, and replying to correspondence from the Tribunal, he estimated that his preparation time was around 3.5 hours, as time at the Tribunal is not allowed.

30. I informed Mr Kelly that, while he had made a claim at the rate of £32 per hour, the current rate for preparation time is at the rate of **£38 per hour**. Accordingly, I have awarded the claimant the sum of **£133**, being 3.5 x £38, in terms of my powers under **Rules 74 to 84 of the Employment Tribunal Rules of Procedure 2013.**

31. I am satisfied, from my own assessment, that **3.5 hours** is a reasonable and proportionate amount of time for the claimant's representative, Mr Kelly, to have spent on preparatory work.

32. Further, in the absence of any information from the respondents, as to their ability to pay, I have awarded the full sum, considering it unlikely that, given

the size and nature of the respondents' business, they would be unable to pay the amount of this Preparation Time Order.

5 **Employment Judge: Ian McPherson**
Date of Judgment: 08 November 2018
Entered in register: 11 November 2018
and copied to parties

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