



**EMPLOYMENT TRIBUNALS (SCOTLAND)**

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**Case Nos: S/4100256/2019 & S/4100257/2019**

**Held at Dundee on 18 March 2019**

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**Employment Judge: I McFatridge**

**Mr Connor Mackay**

**Claimant  
In person**

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**Aneesa Amjad  
Maza Indian Buffet Restaurant**

**First Respondent**

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**Maza Indian Buffet Restaurant**

**Second Respondent**

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**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

35 The Judgment of the Tribunal is

1. The first respondent Aneesa Amjad shall pay to the claimant the sum of Two Thousand and Fourteen Pounds, Twelve Pence (£2014.12) in respect of wages unlawfully withheld.

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E.T. Z4 (WR)

2. The claim so far as directed against the second respondent, an entity without legal personality, is dismissed.

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## **REASONS**

1. The claimant submitted a claim to the Tribunal under reference 4100256/2019 against the first respondent Aneesa Amjad. He also submitted a claim under reference 4100257/2019 in which the respondent was stated to be Maza Indian Buffet Restaurant. He claimed he had suffered an unlawful deduction of wages. The claims were intimated against the respective respondents in the usual way. Neither respondent submitted a response. A hearing was fixed and at the hearing the claimant gave evidence on his own behalf. I made the following factual findings based on the claimant's evidence and the documents which he lodged.

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### **Findings in Fact**

2. Around 12:30 on 31 July 2018 the claimant went in to a restaurant situated in High Street, Perth known as Maza Restaurant enquiring if they had work. He spoke to the first respondent, Aneesa Amjad who advised him that he would be employed. He gave her his bank details together with his P45 and a copy of his passport. The only person the claimant spoke to was the first respondent. He understood she owned the restaurant. The claimant understood he would be paid at the rate of the National Minimum Wage. The claimant's date of birth is 27/02/95 and during the whole period of his employment he was 23 years of age. The appropriate rate which he was entitled to be paid in terms of the National Minimum Wage was £7.38 per hour.

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3. The claimant proceeded to work at the restaurant. Ms Amjad told him that he would be paid in cash for the first week but would thereafter be paid by direct

transfer into his bank account. The claimant understood that he was being paid however he subsequently discovered that money had not been paid into his account. On every occasion which he raised the matter with Ms Amjad she told him that payment would be made within a few days. The claimant's employment terminated on 25 September.

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4. The claimant produced a schedule showing the hours he worked each day which was lodged (C2). The total hours which the claimant worked amounted to 290 hours 27 minutes.

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5. During the period of his employment the claimant worked a total of 290 hours, 27 minutes (290.45 hours). He received cash payments totalling £129.40. He was entitled to be paid a total of £2143.52. As at the termination of his employment the first respondent had withheld wages in the sum of £2014.12. The claimant is entitled to an order for this amount.

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6. At the beginning of September 2018 the claimant was given what bore to be a statement of terms and conditions of employment. This was lodged (C1). This showed the claimant's employer as being "Maza Indian Buffet Restaurant" of 222-224 High Street, Perth. Following the termination of his employment the claimant made enquiries as to whether there was a limited company of this or a similar name. It would appear that Aneesa Amjad was Director of a company called AAA Hot Food Limited (Company No. SC454538) which traded from 222-224 High Street, Perth however this company was dissolved on 27 February 2015. The claimant was unable to find any limited company which appeared to be operating the restaurant. During the course of trying to obtain payments the claimant spoke to the first respondent's husband who advised that his wife was the only person involved in running the restaurant.

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**Discussion and Decision**

7. The first question which I had to determine was the identity of the employer. The claimant had raised two claims, one against the individual whom he had been hired by and who had been responsible for directing his employment and for paying him. The other claim was against the entity set out in his contract of employment. It was clear to me that the second respondent was simply the address of the restaurant and that it had no legal personality. A claim could not proceed against the second respondent. On the other hand it was clear from the evidence that all of the claimant's interactions had been with the first respondent and that the first respondent was his employer. It was clear from the evidence that the claimant had worked at the restaurant for a substantial number of weeks and apart from a couple of cash payments at the beginning he had not been paid. I accepted the claimant's evidence as to the number of hours he had worked and that he was due to be paid at the rate of the National Minimum Wage. It should also be noted that the claimant indicated that he understood he was not the only person in his situation and that there were numerous reports on social media regarding other individuals who had worked for the company and not been paid.
8. In the circumstances it was clear to me that the claimant was due the sum of £2014.12 as calculated above and that an order should be made for this amount.

Employment Judge:  
Date of Judgment:  
Entered in register:  
and copied to parties

Ian McFatridge  
21 March 2019  
21 March 2019