



# EMPLOYMENT TRIBUNALS

**Claimant: Mr S Brotchie**

**Respondent: Manouka Limited**

**Heard at: London Central**

**On: 15 March 2019**

**Before Judge: Employment Judge A Isaacson**

## Representation

Claimant: In person

Respondent: Not present

# JUDGMENT

## The Judgment of the Tribunal is as follows:

1. The Tribunal finds that the Respondent failed to give the Claimant any pay statement in accordance with section 8 Employment Rights Act 1996 (“ERA”) for the months of August and September 2018.
2. The pay statement for July 2018 did not contain the correct particulars required.
3. The Tribunal declares that for the month of July 2018 the Claimant’s pay statement should have stated that his gross pay was £2675.00; his income tax deducted should have been £337.35 and not £162.40; his national insurance contributions (“NIC”) should have been £236.76 and not £213.00. His net pay was £2100.00.
4. The Tribunal declares that for the months of August 2018 and September 2018 the Claimant should have received a pay statement that stated the Claimant’s gross pay was £2675, his income tax was £337.35 and NIC was £236.76 with net pay £2100.
5. The Tribunal determines that in the 13 weeks immediately preceding the date of the application for the reference, namely the months of July,

August and September 2018, the aggregate amount of the unnotified deductions amount to £1341.93. For the months of August and September 2018 the unnotified deductions were £337.35 for income tax and £236.76 for NIC (£574.11 x 2 = £1148.22). For the month of July, the difference in the deductions notified and what should have been deducted were income tax £337.35 - £167.40 = £169.95 and for NIC £236.76 - £213.00 = £23.76.

6. The Respondent is ordered to pay to the Claimant the sum of £1341.93 being the aggregate amount of the unnoticed deductions made in the 13 weeks period.
7. The Claimant's claims for unfair dismissal and race discrimination are dismissed following withdrawal by the Claimant.

## **REASONS**

1. The Claimant was employed as head chef with the Respondent from 15 June 2018 until the end of September 2018. The Claimant resigned on the 18 September 2018 and was willing to work his notice but was told to leave on the 18<sup>th</sup> September 2018. However, the Claimant was paid to the end of the month and accepts his termination date was the end of September 2018.
2. The Claimant's contract of employment stated that his net salary would be £2000 per month but the Tribunal accepts the evidence of the Claimant, supported by pay slips, that the agreement reached with the Respondent was that he would be paid £2100 net per month. The Claimant was paid this amount per month for the duration of his employment.
3. Throughout his employment the Claimant only received two pay slips; one for June and one for July 2018. His June pay slip showed a net amount of £2100 but stated the Claimant had no PAYE tax deduction and only £190.44 NIC. The Claimant's pay slip for July showed net pay of £2100 with PAYE Tax of £162.40 and NIC of £213.00.
4. The Claimant chased the Respondent for further pay slips and his P45 but to date has not received any. The Claimant contacted ACAS and HMRC and presented a claim to the Employment Tribunal on 8 November 2018. The Claimant has withdrawn his claims for unfair dismissal and race discrimination. His claim is for a declaration and compensation for not receiving accurate or any itemised pay statements. The Respondent didn't file a response.
5. Using a tax calculator from the HMRC website the Tribunal finds that based on a net salary of £2100 the Claimant's gross salary, including bonus should have been £2675. His PAYE Tax should have been £337.35 and his NIC £236.76 per month. Therefore, for the months of August and September 2018 the Tribunal declares that the Claimant should have received a pay slip setting out these figures.
6. For the month of July 2018, the pay slip was inaccurate as stated in paragraph 3 above.
7. The Respondent is ordered to pay to the Claimant the amount of £1341.93 being the aggregate amount of deductions taken but not notified to the Claimant in the

months of July, August and September 2018.

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Employment Judge Isaacson

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Date 15 March 2019

JUDGMENT & REASONS SENT TO THE PARTIES ON

18 March 2019

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FOR THE TRIBUNAL OFFICE