



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4113120/2018

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Held in Glasgow on 30 September 2018

Employment Judge: Laura Doherty

10 **Mr W Sutherland**

**Claimant
In Person**

Clyde Homes

**Respondent
No appearance and
No representation**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgement of the Employment Tribunal is that:

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1. the respondents failed to provide the claimant with itemised pay statements as required by Section 8 of the Employment Rights Act 1996.

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2. the respondents made unnotified deductions from the claimant's pay during the period of 13 weeks prior to this application, and the respondents are ordered to pay the claimant the sum of **£1,176.63** which is the aggregate of the unnotified deductions made in that 13-week period.

REASONS

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1. The claimant presented a claim to the Employment Tribunal on 5th August 2018 in respect of the respondent's failure to provide him with itemised pay statements, making unnotified deductions, and failing to provide him with a P45.

E.T. Z4 (WR)

2. The claimant was not responded to, but a hearing was fixed to consider the claimant's claim. The respondents did not attend at the hearing, but the claimant appeared in person.
- 5 3. It was explained to the claimant that the tribunal does not have jurisdiction over the issue of a P 45, but that it can consider a claim under Section 12 of the E RA in respect of a failure to provide itemised pay statements as required under Section 8 of the ERA. It was explained that the tribunal also has jurisdiction to consider making on award in respect of unnotified deductions
- 10 over the period of 13 weeks prior to the date of the application.

Findings in Fact

4. The claimant give evidence on his own behalf, and lodged documentary productions. From the information before it the tribunal made the following findings in fact.
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5. The claimant commenced his employment with the respondents on 12 March 2018. He was employed as a joiner. The claimant was paid an hourly rate of £16 per hour. His basic hours were 39 hours per week, but he regularly worked in excess of that.
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6. The claimant completed timesheets at the end of each week, and his wages were calculated on the basis of his hours worked x £16 per hour. The claimant was paid every 2 weeks directly into his bank account.
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7. The claimant regularly asked for pay statements but did not receive these. At no time during his employment did the claimant received any notification of how the amount which he received by way of payment of wages was calculated.
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8. The claimant contacted the Inland Revenue about the situation and was advised that he was entitled to receive pay slips. He wrote to the respondents on 19 June asking for pay slips, specifying the details required. He did not receive any response to this

9. The claimant left the respondents employment on 20 June 2018.
10. During the period from 30 March 2018, to 20 June 2018, (13 weeks) the
5 claimant's total gross pay, worked out by multiplying his hours worked times
his hourly rate of pay, was £8,632.
11. He received a net payment of £7,455.37 during that period, and therefore
10 deductions of £1,176.63 were made from his wages. The claimant was not
notified of any of these deductions

Consideration

12. Section 8 of the ERA provides as follows;

- (1) An employee has the right to be given by his employer, at or before
15 the time at which any payment of wages or salary is made to him, a
written itemised pay statement.
- (2) That statement shall contain particulars of-
- (a) the gross amount of the wages or salary.
- 20 (b) The amounts of any variable, and (subject to section 9) any
fixed, deductions from the gross amount and the purpose for
which they are made
- (c) the net amount of wages or salary payable, and
- 25 (d) where different parts of the net amount paid in different ways,
the amount and method of payment of each part payment, and
- (e) when the amounts of wages or salaries vary by reference to
30 time workload, the total number of hours worked in respect of
the variable amount of wages or salary either as-

- (i) a single aggregate figure,
- (ii) or separate figures for different types of work or different rates of pay.

5 13. Where an employer does not give an employee a statement as required by Section 8, a reference can be made to the Employment Tribunal under Section 11 of the ERA.

10 14. Such a reference is determined under Section 12, and where the tribunal is satisfied that the employer has failed to give an employee any pay statement in accordance with section 8, then it shall make a declaration to that effect.

15 15. The tribunal was satisfied on the basis of the claimant's evidence that an itemised pay statement as required by section 8 had not been provided to the claimant and accordingly it has made a declaration under section 12 (3) of the ERA to the effect that there had been a failure to comply with the requirements of section 8.

20 16. In terms of section 12 (4), where on such a reference the tribunal finds that any unnotified deductions have been made from the pay of the employee during the period of 13 weeks immediately preceding the date of the application for the reference, whether or not the deductions were made in breach of contract, the tribunal may order the employer to pay the employee a sum not exceeding the aggregate of the unnotified deductions made.

25 17. Section 12(5) provides that an unnotified deduction is made, if it is made without the employer giving the employee in any pay statement the particulars of the deductions required by sections 8 or 9.

30 18. The Tribunal was satisfied that the respondents had made unnotified deductions. It accepted the claimant's evidence, which was entirely credible and believable, to the effect that in the 13 weeks prior to his making the application his gross pay calculated on the basis of his hours worked times his hourly rate of pay was £8,632, but that during that period he had been paid

£7,455.37. There had therefore been £1,176.63 of unnotified deductions during that period.

- 5 19. The Tribunal was satisfied that it was appropriate to make an award of this sum under section 12 (4) of the ERA in circumstances where the claimant had regularly asked for pay slips, and none had been provided.

10 **Employment Judge: Laura Doherty**
Date of Judgment: 03 December 2018
Entered in register: 04 December 2018
and copied to parties