



EMPLOYMENT TRIBUNALS

Claimant: Miss D Daniell

Respondent: Shield Contract Services (UK) Limited

HELD AT: Sheffield

ON: 17 April 2019

BEFORE: Employment Judge Little

REPRESENTATION:

Claimant: In person

Respondent: No attendance or appearance (no Response presented)

JUDGMENT

The judgment of the Tribunal is that:

1. The correct name of the respondent is Shield Contract Services (UK) Limited and the title of the respondent in these proceedings is amended accordingly.
2. The complaint of unauthorised deduction from wages succeeds and the award to the claimant is £344.30.
3. The complaint in respect of holiday pay also succeeds and the sum which is due to the claimant in respect of accrued but untaken holiday is £360.
4. Accordingly, the total sum of £704.30 is to be paid by the respondent to the claimant forthwith.

REASONS

1. The claimant brought these proceedings against an entity which she named as Shield Contract Services. The claimant gave the address of that organisation as Princess Mary House, 4 Bluecoats Avenue, Hertford, SG14 1PB. It was to that address that the Tribunal sent the claim form.

2. The notice of claim which was sent to the respondent indicated that a Response in the prescribed form was required by 20 March 2019. No such response was received and in fact no correspondence at all has been received from the respondent.

3. The claimant has produced to me a contract of employment which names her employer as Shield Contract Services (UK) Limited at the same address which the claimant gave within her claim. It is to be noted that this is that company's registered office address. I have amended the title of the respondents to record the respondent's full name.

4. The claimant has shown me the payslips which she received from the respondent for the fifteen weeks of her employment. She has also shown me an explanatory document which the respondent sent to her on 11 February 2019 which seeks to explain various entries on the payslips which the respondent issues.

Unauthorised Deduction from Wages

5. Two of the deductions are described as 'expenses' and 'company margin'. The guidance document says that 'expenses' are those which the employee submits each week to reduce taxable income. The claimant has told me that in fact she never submitted an expenses claim. As there is no provision in the contract of employment for expenses to be deducted I consider this to be an unauthorised deduction. During the course of the employment £116.80 was deducted under that heading.

6. The same explanatory document describes 'company margin' as "the fee for our service. The fee is taken off your gross income, this allows tax relief on the fee". Again, I can find no authority in the contract of employment for this deduction to be made and I consider this to be a further unauthorised deduction from the claimant's wages. During the course of the fifteen-week employment £227.50 was deducted under that heading.

Holiday Pay

7. The payslips make reference to 'retained holiday pay' and that too is described as a deduction. Without further input from the respondent it was not entirely clear what the holiday arrangements were but it appears that the respondent may have been adopting the so called 'rolled up' approach to holiday pay. If so, I do not consider that that was done with sufficient transparency. I note that in two of the payslips payments are recorded to the claimant which, taken together, equate to the overall figure for the retained holiday pay – the sum of £507.29. However, in the circumstances I consider that this cannot be regarded as a payment on account of holiday pay because the requirement following the decision of the European Court of Justice in the case of **Robinson Steele -v- R D Retail Services Limited** is that sums which purport to include rolled up holiday pay have to be paid transparently and comprehensively as holiday pay and that is not so here.

8. I have therefore proceeded to calculate what holiday the claimant had accrued during her employment. No holiday was not actually taken. The result is that a payment in lieu was due to the claimant at the termination of the employment. I

calculate that she had accrued nine days holiday and I have taken an average net weekly payment across the fifteen weeks in order to determine that the claimant's daily net pay average averaged at £40.00. I have therefore awarded nine days at £40 hence the further figure of £360.00.

Employment Judge Little

Date 18th April 2019