



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4104866/2017

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Held in Glasgow on 9 January 2019

Employment Judge: Claire McManus

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Mr Muaz Abdulrhaman

**Claimant
In Person**

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Point One Security Solutions Ltd

**Respondents
No appearance and
No representation**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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The Judgment of the Tribunal is that:-

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- The respondent has made an unauthorised deduction from wages contrary to Section 13 of the Employment Rights Act 1996 in terms of unpaid wages and the respondent is ordered to pay to the claimant the sum of £2,193.75 (TWO THOUSAND ONE HUNDRED AND NINETY THREE POUNDS AND SEVENTY FIVE PENCE) in respect of such unpaid wages.

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- The respondent has made an unauthorised deduction from wages contrary to Section 13 of the Employment Rights Act 1996 in terms of unpaid mileage expenses and the respondent is ordered to pay to the claimant the sum of £332.79 (THREE HUNDRED AND THIRTY TWO POUNDS AND SEVENTY NINE PENCE) in respect of such unpaid amount.

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The respondent shall be at liberty to deduct from the above sums prior to making payment to the claimant such amounts of Income Tax and Employee National Insurance Contributions (if any) as it may be required by law to deduct from a
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payment of earnings of that amount made to the claimant, and if it does so, duly remits such sums so deducted to Her Majesty's Revenue and Customs, and provides to the claimant written evidence of the fact and amount of such deductions and of the sums deducted having been remitted to HMRC, payment of the balance
5 to the claimant shall satisfy the requirements of this judgment.

REASONS

Background

1. The claimant's claim is for unpaid wages, and payment in respect of mileage
10 expenses. The claims are undefended by the Respondent.
2. The ET1 was received by the Employment Tribunal Office in Glasgow on 6
October 2017. Notice of Claim and Notice of Final Hearing on 9 January 2019
was set to the parties on 30 October 2018. No ET3 was submitted in defence
15 of this claim and there was no appearance by or on behalf of the respondent
at this hearing. The claimant gave evidence in support of his claim, which
was found to be entirely credible and reliable.

Findings in Fact

3. The following facts were found by the Tribunal to be proven:
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 - a. The claimant was employed by the respondent as a security guard. He
worked for them at various locations. He received emails from the
respondent's manager, Gary McLauchlan to direct him to the various
locations where he was required to work for the respondent. The
25 claimant was entitled to mileage expenses at the rate of 111p per mile
for travel to and from his home and the locations he was required to
work at for the respondent. The appellant travelled to work for the
respondent at various locations in June, July and August 2017, as set
out in timesheet forms relating to the claimant's employment with the
30 respondent in those months. On the basis of a mileage expenses rate

of 111p per mile, that travel equates to a total of £332.79 respect of mileage expenses.

- 5 b. The respondent delayed in paying the claimant his due wages in respect of work carried out by him for the respondent in June 2017. The claimant queried this non-payment and received a payment of these wages by cheque in the sum of £463.57, which was paid into the claimant's bank account on 26 July 2017. That sum represented the full net amount due to the claimant for work carried out by him for the respondent in June 2017. The claimant expected to receive payment of wages from the respondent on the 15th of each month. The claimant has received no payment in respect of work carried out by him for the respondent in July or August 2017. The claimant's gross hourly rate with the respondent was £7.50. The claimant worked 144.5 hours for the respondent in July 2017. He is due payment in the gross sum of £1083.75 (144.5 x 7.50) in respect of that work. The claimant worked 148 hours for the respondent in August 2017. He is due payment in the gross sum of £1110 (148 x 7.50) in respect of that work.
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- 20 c. The claimant has sought payment of the sums due to him from the respondent, but these have not been paid.

Issues

4. The Tribunal required to determine whether or not the claimant is entitled to payment from the respondent in respect of unpaid wages and unpaid mileage expenses.
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Relevant Law

Failure to Pay Wages and Bonus

5. The Employment Rights Act 1996 ('the ERA') at section 13 provides for the right of an employee not to suffer unauthorised deductions. Section 14 sets out the provisions in respect of excepted deductions and section 16 sets out the provisions in respect of excepted payments. Section 13(3) states:
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5 *'Where the total amount of wages paid on any occasion by an employer to a worker employed by him is less than the total amount of the wages properly payable by him to the worker on that occasion (after deductions), the amount of the deficiency shall be treated for the purposes of this Part as a deduction made by the employer from the worker's wages on that occasion.'*

6. Section 27 sets out provisions with regard to meaning of wages, including at section 27(1)(a) 'any fee, bonus, commission, holiday pay or other emolument referable to his employment, whether payable under his contract or otherwise.'
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Decision

7. The decision was given orally at the hearing. I accepted the claimant's oral evidence, which was consistent with the documents relied upon by him. The claimant is entitled to the sums claimed, being the total gross sums of £2193.75 in respect of unpaid wages from July and August 2017 and the sum of £332.79 in respect of unpaid mileage expenses incurred in June, July and August 2017, subject to lawful deductions in respect of respect of tax and national insurance. Mileage expenses are an 'emolument referable to his employment' and are wages in terms of section 13 and section 27(1)(a) of the Employment Rights Act 1996.
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25 **Employment Judge: C McManus**
Date of Judgment: 10 January 2019
Entered in register: 10 January 2019
and copied to parties