



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr Dennis Lewis

**Respondent:** De-Villamar Limited

**Heard at:** Carmarthen **On:** 21st May 2018

**Before:** Employment Judge Howden-Evans

**Representation:**

Claimant: In Person

Respondent: No attendance

## JUDGMENT

Having heard evidence on oath from the claimant, the employment judge's decision is:

1. The respondent has made unauthorised deductions from the claimant's wages and is liable to pay the claimant the sum of £45,166.67 for outstanding wages.

## REASONS

1. The respondent company is in voluntary liquidation. The liquidators, John Butler and Andrew Nichols of Redman Nichols Butler have indicated they do not intend to attend this hearing. There has been no attendance by or on behalf of the respondent. Rule 47 Employment Tribunal Rules 2013 provide I can proceed with the hearing in the absence of a party.

- 2.The respondent has filed a late response to these proceedings. The first issue I had to determine was whether the respondent should be allowed to defend these proceedings based upon this response. Having considered the response, the main thrust of the defence is that the respondent cannot afford to pay the claimant at present. It is accepted that substantial sums are owed to the claimant.
- 3.Having considered the documents and the claimant’s evidence, I do not accept that the respondent has any real defence to these proceedings; their purported defence appears to be a stalling tactic to prevent the claimant from having a judgement. As such, it would not further the overriding objective to delay these proceedings to allow the respondent to pursue a hopeless defence.
- 4.The respondent has unlawfully deducted £39,100 in total from the claimant’s wages: these deductions go back to 2015. The claimant’s net monthly salary was £3,000 per month; he was only paid £3,000 in total during the year 25<sup>th</sup> May 2017 to 21<sup>st</sup> May 2018. In addition to this, he was owed £7,600 wages from 2015.
- 5.As the £39,100 owed is the claimant’s net pay (ie after tax), it is necessary to gross this award up. The grossed up total is £45,166.67.
- 6.The claimant had attempted to claim bank charges and unpaid pension contributions. Bank charges and pension contributions do not qualify as “wages” for the purposes of s13 Employment Rights Act 1996 unlawful deductions from wages claim. (see the Employment Appeal Tribunal’s decision in *Somerset County Council v Chambers* [UKEAT/0417/12](#)).

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Employment Judge Howden-Evans

Date: 21<sup>st</sup> May 2018

JUDGMENT SENT TO THE PARTIES ON  
.....18 June 2018.....

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FOR THE TRIBUNAL OFFICE