



EMPLOYMENT TRIBUNALS

Claimant: Mr M Chrol

Respondent: Jessa Enterprises Limited

Heard at: Reading **On: 10 September 2019**

Before: Employment Judge Gumbiti-Zimuto

Appearances

For the Claimant: Not attending and not represented

For the Respondent: Written Representations dated 31 August 2019

JUDGMENT

The respondent made an unlawful deduction in the claimant's wages in the sum of £1,153.84. This is the gross amount. If the respondent pays the tax and national insurance due to HMRC, payment of the net amount will meet the judgment debt.

REASONS

1. In his claim form the claimant alleges that he was employed from 1 March 2018 to the 19 April 2018 as a project co-ordinator. The claimant was paid a salary of £600 per week for working 40 hours. The claimant contends that he was paid the correct amount for the first two weeks and paid a reduced amount of £500 for the third week and was not paid at all for the fourth and fifth weeks. The claimant makes a claim for notice pay. The claimant also states that he worked overtime.
2. The claimant claims £1,900.00 in unpaid wages and notice, and a further £3,780.00 in respect of overtime.
3. The claimant has not attended to give evidence and has given no explanation for his failure to attend.
4. The respondent denied the claimant's claims. In the response it is stated that the claimant's stated facts are incorrect. The respondent says that the agreed wage was £2500 per month (£576.92 per week), no overtime was agreed, and the claimant did not want to work during the notice week.

5. The respondent has not attended to give evidence but has provided written representations received on the 3 September 2019.
6. The respondent denies that the sums claimed stating that the claimant was paid £1514.30 and that claimant owed the sum of £1125 to the respondent in respect of various items of equipment and loans. The respondent contends that the claimant: "Taking into account all the above the claimant still owes the company £190.70."
7. Having regard to the information before me the claimant has not been able to show that there was any agreement to work overtime and in the circumstances the claimant's claim in that regard fails.
8. The respondent's contention that: "Taking into account all the above the claimant still owes the company £190.70", suggests that the claimant was owed at least £1315.70 in wages which were not paid but have been set off against the sums claimed by the respondent. The respondent is not permitted to set off unpaid wages.
9. I have not been provided with a copy of the contract of employment.
10. Section 13(1) of the Employment Rights Act 1996 provides that: "An employer shall not make a deduction from wages of a worker employed by him unless (a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or (b) the worker has previously signified in writing his agreement or consent to the making of the deduction." The information before me does not establish a right to make deductions from the claimant's pay on the part of the respondent.
11. The claimant's claim however is a claim for unpaid wages and also a claim for breach of contract in relation to notice pay. The respondent is therefore entitled to claim an equitable set off the sums in respect of the breach of contract claim.
12. The claimant has not set out a relevant notice period. His length of employment was over one month. Therefore, by virtue of section 86(1)(a) of the Employment Rights Act 1996 the claimant is entitled to one week's notice pay. The claimant claims £600 per week on the information before me he would be entitled to recover £576.92 notice pay. The respondent is entitled to set off the amounts owed to the claimant by way of notice pay in that sum.
13. I am satisfied that the claimant is entitled to £100 reduced pay for week three. The claimant claims to have worked week four and five for which he was not paid amount to £1,200 (£600 x2). On the information before me the claimant is entitled to £1,153.84.

14. The claimant is therefore entitled to recover the sum of £1,153.84 in unpaid wages.

Employment Judge Gumbiti-Zimuto

Date: 10 September 2019

Sent to the parties on:

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For the Tribunals Office

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