



# EMPLOYMENT TRIBUNALS

## Claimant

Ms M Rosinska

v

## Respondent

AM-R-AZ Llp

**Heard at:** Cambridge

**On:** 29 October 2019

**Before:** Employment Judge Tynan (sitting alone)

## Appearances

**For the Claimant:** In person

**For the Respondent:** Mr A Sayani, Partner of the Respondent firm

**Interpreter:** Mrs Joanna Jones, Polish speaker

## JUDGMENT

The Claimant's complaint under Section 23 of the Employment Rights Act 1996 is well founded and the Tribunal Orders the Respondent to pay to the Claimant the sum of **£1,493.93** in respect of the Unlawful Deductions made from her pay in contravention of Section 13 of the Employment Rights Act 1996.

## REASONS

1. The Claimant was employed by the Respondent as a Care Assistant from 23 October 2016 until 15 October 2017. She presented a Claim Form to the Employment Tribunals on 6 March 2018 alleging that she had been discriminated against on the grounds of her race and that she was owed notice pay, holiday pay and arrears of pay.
2. The matter came before me on 29 October 2019 for a Case Management Preliminary Hearing. The Preliminary Hearing had previously been listed on 3 October 2018 and 2 May 2019, but on each occasion the hearing had been postponed as it was unlikely the case could have been heard. Accordingly, by the time the matter came before me, two years had elapsed since the matters about which complaint was made by the Claimant
3. In the absence of any attendance by the Respondent, the hearing commenced at 10:25am. However, part way through the hearing Mr Sayani of the Respondent arrived at the Tribunal, having been delayed.

4. Following further detailed discussion, it became clear that the Respondent accepted there had been unlawful deductions from the Claimant's wages. Mr Sayani and the Claimant were able to identify and agree that the following sums were due to the Claimant, namely:
  - a. £745.60 in respect of 74.56 hours of overtime worked by the Claimant in 2017 at the rate of £10 per hour;
  - b. £198.18 for 22.02 hours accrued but untaken holiday at the rate of £9 per hour;
  - c. statutory sick pay of £142.96 for the period 20 September 2017 to 3 October 2017 (taking into account 3 waiting days); and
  - d. £407.19 in respect of wages, business mileage and business expenses during the Claimant's final two weeks of employment with the Respondent.
5. On the basis of the Respondent's admission that unlawful deductions had been made from the Claimant's wages, it would clearly have been inappropriate for the Respondent to be given leave to file a Response out of time to that aspect of the Claimant's claim. Instead, it was agreed that I should make a declaration in the Claimant's favour pursuant to Section 24 of the Employment Rights Act 1996 and Order the Respondent to pay to the Claimant the agreed amount of the unlawful deductions. These will be subject to deductions as appropriate for Income Tax and employee National Insurance contributions. However, no further deductions should be made from the sum which I have ordered to be paid.
6. As regards the Claimant's complaint that she was unlawfully discriminated against on the grounds of her race, namely her Polish nationality, the Claimant informed the Tribunal that she would wish to withdraw that complaint provided that the sums agreed as being due to her were paid.
7. To that end, I shall review the file again in 28 days' time and provided the Claimant has confirmed to the Tribunal that she has been paid the sums Ordered to be paid, I shall then dismiss the outstanding discrimination complaint on the basis that it is withdrawn by her.

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Employment Judge Tynan

Date: ...31 October 2019.....

Sent to the parties on: .....

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For the Tribunal Office