



EMPLOYMENT TRIBUNALS

Claimant: Ms J Vidal

Respondent: Dr J Charles

Heard at: London South **On:** 11/10/2019

Before: Employment Judge Wright

Representation:

Claimant: Mr D Giddens

Respondent: In person

JUDGMENT

The judgment of the tribunal is that the respondent made an unlawful deduction from the claimant's wages in the gross sum of £83.53 for which the claimant is to account to HMRC. The respondent is ordered to pay that sum to the claimant.

Oral judgment was given at the hearing, however the respondent requested written reasons.

The Tribunal's reasons for its judgment in respect of the claimant's claim is as follows:

1. By a claim form presented on 16/5/2019 the claimant made a claim in respect of unlawful deductions from wages in respect of a 'trial shift' and for £20 in respect of an apron which the claimant did not return when her contract was terminated.

2. The Tribunal finds that the claimant worked a 'trial shift' on 9/4/2019. She worked for 7.5 hours. The respondent had previously set out 7.5 hours was the standard working day. The claimant contended the working day was 8 hours; however when the respondent set out in correspondence the working day was 7.5 hours, this was not challenged by the claimant.
3. The hourly rate of pay was £8.47 gross.
4. The respondent said that during the trial shift, the claimant shadowed other staff, assisted the chef and did washing up.
5. The respondent said that the agreement was that the claimant would only be paid for the trial shift if she was 'successful'. The respondent said that the claimant was not successful. It was common ground however that the claimant worked for five more days after the trial shift (for which she was paid).
6. The Tribunal finds that the claimant was a worker. She completed the trial shift as she worked five more shifts. She was therefore 'successful' and by not paying her for that shift, the respondent had made an unlawful deduction from her wages under s.13 of the Employment Rights Act.
7. In respect of the apron, the respondent said that this was an embroidered apron with the company logo. The claimant did not return it when the contract terminated and the cost was £20.
8. The respondent also confirmed that there was no written contract and therefore the Tribunal finds that the respondent cannot rely upon s. 13 (1) (a) or (b) of the Employment Rights Act 1996 in respect of this deduction.
9. The claimant attempted to return the apron to the respondent during the course of the hearing. As the Tribunal has no jurisdiction in respect of the return of property, it could not assist the parties.
10. The respondent is therefore ordered to pay to the respondent $7.5 \times £8.47 = £63.53$, plus £20 in respect of the apron, therefore the total gross sum is £83.53.

Employment Judge Wright

JUDGMENT SENT TO THE PARTIES ON

28 November 2019