



EMPLOYMENT TRIBUNALS

Claimant: Ms S Saleem
Respondent: Aurameir Creative Limited
Heard at: Birmingham
On: 7 October 2019
Before: Employment Judge Flood (sitting alone)
Representation
Claimant: Mr Green (Counsel)
Respondent: Ms Vickers (respondent representative)

JUDGMENT ON RECONSIDERATION

The decision of the Tribunal is that:

1. The claimant's complaint of unlawful deduction of wages under section 24 of the Employment Rights Act 1996 ("ERA") against the first respondent relating to unpaid wages is well founded and succeeds. The respondent is ordered to pay to the claimant the sum of £934.67
2. The claimant's complaint of accrued holiday pay is well founded and succeeds. The respondent is ordered to pay to the claimant the sum of £23.40 in respect of 0.5 days accrued holiday pay.
3. The respondent has failed to provide the claimant with an itemised pay statement in accordance with her right under section 8 (1) ERA. No award is made under section 12(4) ERA in respect of any unnotified deductions in accordance with the provisions of section 26 ERA.
4. This sum payable is the gross amount to be paid and the claimant is to be responsible for any income tax and National Insurance Contributions thereon.

REASONS

1. The claimant brought a complaint of unlawful deduction of wages and unpaid holiday pay under **section 23 of the Employment Rights Act 1996 (“ERA”)** by presentation of a complaint on 30 July 2018.
2. The claim came before me on 7 October 2018 and I delivered oral judgment together with reasons that day. The claimant was awarded the sum of £934.67 in respect of unpaid wages and the sum of £23.40 in respect of 0.5 days accrued holiday pay. The respondent made an application after oral judgment had been delivered that the claimant be also awarded the sum of £114.97 in respect of interest accrued at 8% per annum in respect of the non payment of wages that had now been determined. The application for interest on such sums was made asking the Tribunal to exercise its discretion under section 24(2) of the Employment Rights Act 1996. This was resisted by the respondent. An award was made for this sum with the caveat that the precise amount would need to be calculated would be confirmed in writing.
3. On checking this after the hearing, it appeared to me, that section 24(2) does not in fact give a Tribunal the discretion to award sums in respect of interest from the date of non-payment until the date of the Tribunal award. Section 24(2) only permits the Tribunal to order “*such amount as the tribunal considers appropriate in all the circumstances to compensate the worker for financial loss sustained by [him] which is attributable to the mater complained of.*” No evidence was presented that any such financial loss had been sustained nor on how this is attributable to the unlawful deductions made.
4. There is no express provision which enables Tribunals to award interest on awards made for unlawful deduction of wages as there are in claims of discrimination, (a tribunal is able to award interest on discrimination awards under s124(2)(b) Equality Act 2010, to compensate for the fact that compensation has been awarded after the relevant loss has been suffered). It appeared to me that the only potential interest that could be payable on this tribunal award would be payable from the day after the relevant decision day, if the full amount is not paid within 14 days after the decision day (see Employment Tribunals (Interest) Order (Amendment) Order 2013 Art 3).
5. I wrote to the parties on 7 October 2019 setting out why I had these concerns and notifying the parties that I believed it was in the interests of justice that the judgment be reconsidered. I asked the parties to notify me if they disagreed with my intention to reconsider, giving reasons, by no later than 14 October 2019 and to set out their views on whether the reconsideration could proceed without a hearing. Unsurprisingly the claimant disagreed and the respondent agreed with this proposal setting out in each case their reasons for holding such an opinion. I decided that it was in the interests of justice for the reconsideration to be carried out without holding a further hearing (as I had a very clear understanding of each parties view on the position).
6. Upon reconsideration, and taking into account the submissions made by the

respondent parties received by the Tribunal on 14 October 2019, (and in particular in the absence of any evidence that any financial loss by way of interest has actually been incurred) I conclude that the oral judgment should be amended and the claimant is awarded the total sum of £958.07 (instead of £1073.04) for the reasons set out above.

Employment Judge Flood
19 December 2019