



# THE EMPLOYMENT TRIBUNAL

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**SITTING AT:** LONDON SOUTH

**BEFORE:** EMPLOYMENT JUDGE C HYDE (sitting alone)

**BETWEEN:**

**Claimant**

**MR G NGUGI**

**AND**

**Respondent**

**AMITY SECURITY LIMITED**

**ON:** 25 September 2019

**APPEARANCES:**

**For the Claimant:** In Person

**For the Respondent:** Mrs J McCalla, Director of the Respondent

## **WRITTEN REASONS FOR THE JUDGMENT ANNOUNCED ON 25 SEPTEMBER 2019 AND SENT TO THE PARTIES ON 23 NOVEMBER 2019**

1. Reasons are set out in writing following a request from the Claimant sent by email dated 26 September 2019 for a reconsideration of the Judgment. He still believed that he was owed £15 by the Respondent.
2. These reasons for the Judgment which was sent to the parties on 23 November 2019 are set out only to the extent that the Tribunal considers it necessary to do so in order for the parties to understand why their respective cases have succeeded or not. Further, the Tribunal only sets the reasons out in writing to the extent that it is proportionate to do so.

3. All findings of fact were reached on the balance of probabilities.
4. By a claim which was presented on 3 November 2018, the Claimant complained that he had been unfairly dismissed and also that he had not been paid the correct wages.
5. In relation to his unfair dismissal complaint the Claimant confirmed that his work for the Respondent had spanned the period of 28 September 2017 to 28 June 2018. It appeared to the Tribunal therefore that even if the Claimant was an employee, which the Respondent disputed, he did not have sufficient length of service to bring a claim as required under section 108 of the Employment Rights Act 1996 – unfair dismissal under section 98 of the Employment Rights Act.
6. The Claimant's claim form did not support any further basis on which he could have complained of unfair dismissal.
7. The Tribunal therefore dismissed that claim forthwith.
8. The remaining complaint that there had been an unlawful deduction from his wages under section 23 of the Employment Rights Act 1996 was set out in the claim form in a narrative form. The Tribunal then double-checked with him that he still believed that the information in his statement was accurate. Apart from the Claimant attributing one payment to 10 June 2018 which had actually been received on 1 June, and a discrepancy of 50p, he confirmed that his account of the funds received was accurate. The Tribunal verified these payments by reference to a print-out of the Claimant's bank statement for the relevant timeframe from May to August when the last payment was received; and by reference to three pages of time sheets and by reference to the WhatsApp messages by which the Claimant was booked to work.
9. Thus, it was agreed with this calculation that the Claimant received the sum of £650.50 from the period 25 May to 10 August 2018 in respect of work done from 17 May to 28 June 2018. In that timeframe he was paid the sum of £650.50 according to his bank statement. The parties also agreed that the agreed rate of pay was £10.00 per hour.
10. The Tribunal then added up the total number of hours that the Claimant had worked which again the Tribunal verified by the contemporaneous documentation and this totalled 63.5 hours.
11. For the avoidance of doubt, the Claimant agreed that he had worked an additional shift before 17 May which was on 3 May and that he had received the correct amount in payment of £65.00 on 11 May 2018. The Tribunal disregarded that payment on his bank statement.

12. The Tribunal was therefore satisfied that the Claimant had been paid the sums that he was entitled to for shifts worked between 17 May and 28 June 2018 inclusive. There was therefore no further sum outstanding. The unlawful deduction of wages claim was therefore not well founded and was dismissed.

Evidence Adduced

13. The Tribunal considered a statement prepared by the Claimant and marked [C1]; bank statement printouts of the Claimant's account, marked [C2]; and a bundle of documents compiled by the Claimant, marked [C3].

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Employment Judge Hyde

Date: 4 December 2019