



# EMPLOYMENT TRIBUNALS

**Claimant****Respondent**

Mr S Casanova

v

Mitie Limited

**Heard at:** Watford

**On:** 5 February 2020

**Before:** Employment Judge Alliott

**Appearances**

**For the Claimant:** In person

**For the Respondent:** Miss C Ibbotson (Counsel)

## JUDGMENT

1. The respondent has made unauthorised deductions from the claimant's wages and is ordered to pay the claimant the gross sum of £5,114.36 (subject to Tax and National Insurance).
2. The claimant is ordered to pay the respondent costs assessed in the sum of £1,200. Such costs to be off-set against the judgment sum.

## REASONS

1. Following my judgment on 3 July 2019, the respondent calculated the sums due to the claimant. The sick pay claim was paid.
2. On 17 September 2019 the respondent offered the claimant £5,689.96 gross.
3. The claimant refused saying that the calculation was confusing.
4. The respondent tried to explain the calculation by telephone but the claimant did not want to speak to them.
5. The claimant submitted his calculations in a schedule on 21 December 2019 which came to £5,114.36, a sum of £575.60 less than he had been offered.
6. On 16 January 2020 the respondent sent a spread sheet setting out how the figure of £5,689.96 had been calculated.

7. On 23 January 2002 the respondent offered £5,114.36 in an email via ACAS.
8. The claimant refused on the basis that the proposed COT3 settlement document sought to settle all claims to date, ie January 2020. I consider that refusal to have been reasonable.
9. However, on 31 January 2020 the respondent again made an offer of £5,689.96 and gave a costs warning. That was subject to agreeing the COT3 wording.
10. The claimant did not answer that offer. In my judgment the COT3 wording would have been sorted out easily and this hearing avoided. In my judgment the claimant, who had access to ACAS advice and assistance, acted unreasonably in not responding to the 31 January 2020 offer.
11. The post 31 January 2020 solicitor costs total of £630 which I reduce to £500 as I consider 4.2 hours drafting the witness statement to be excessive. I allow the brief fee of £500. Total assessed costs : £1,000 plus VAT £200.

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Employment Judge Alliot

Date:14/2/2020

Sent to the parties on: .....

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For the Tribunal Office