



EMPLOYMENT TRIBUNALS

Claimants: (1) Mr R Barker
(2) Mr P Tweddle
Respondent: JT Fabrications Limited

AT A HEARING BY TELEPHONE CONFERENCE CALL

Heard at: Leeds **On:** 3rd April 2020
Before: Employment Judge Lancaster

Representation

Claimants: In person
Respondent: No appearance entered and did not attend

JUDGMENT

1. It is declared that the Respondent has made a series of unauthorised deductions from the wages of each Claimant and is ordered to pay compensation in the gross sums as follows:

| | |
|------------|------------|
| Mr Barker | £28,999.94 |
| Mr Tweddle | £28,006.70 |

2. In addition the Respondent is ordered to pay to the Claimants an additional award of 4 weeks' pay under section 38 of the Employment Act 2002 by reason of its failure to provide written statements of the particulars of employment as required by Part 1 of the Employment Rights Act 1996. The additional awards of compensation are calculated in each case at £2,307.68

REASONS

1. The Claimants by telephone and by submission of additional documents emailed to the Tribunal in advance of this hearing were able to provide the necessary information to enable calculation of the compensation to be awarded on judgment in default of any Response.

Cases: 1800697/2020 &
1800710/2020

2. Because the decision was then reserved to enable the necessary calculations to be made, written reasons are, however, now provided.
3. Each Claimant commenced work for the Respondent company in November 2018, on a salary of £30,000 gross per annum.
4. Any part of the monthly salary due of £2,500.00 gross was paid only erratically, even where payslips were provided – which did not happen every month.
5. Mr Barker claims arrears across the period from December 2018 until 17th January 2020, being the date upon which he was notified (by receipt of a P45 on 28th January 2020) that his employment had been terminated. (It appears that no notice of termination was given, but that is not part of the claim currently before the Tribunal.)
6. Mr Tweddle claims arrears from February 2019 until the date of termination.
7. In no case was there a gap of more than 3 months between the dates when any intermittent payment's towards salary were in fact received. That is therefore series of unauthorised deductions.
8. In the case of Mr Barker the gross pay which he ought to have received over this period was £33,999.94. I calculate that at 13 months at £2,500.00 per month plus payment of the part month up to 17th January 2020, which is said to be £1,499.94 on the final (albeit unpaid) wages slip.
9. He received throughout this period only three payments totalling £5000.00. As there is no indication as to how these sums were calculated, nor any indication either as to whether any of the deductions purportedly shown of wage slips were ever in fact paid over to HMRC or to a pension provider, I have decided – doing the best I can on the available information that these amounts paid should simply be deducted from the gross wages earned.
10. In the case of Mr Tweddle the gross pay which he ought to have received from Februarys 2019 until 17th January 2020 is similarly calculated at £28,999.94. The only payment made to him appears to have been the 50 per cent part payment of £993.24 in February, where he claims the net balance due of £993.24 as a specific deduction. Again therefore I deduct that sum of £993.24 to arrive at the gross amount that is unpaid.
11. I accept the Claimants' assertions that they did not receive written particulars of employment upon commencing work for the Respondent company. I exercise my discretion in all the circumstances to award he maximum uplift on the compensation awards, which is 4 weeks' pay, rather than the minimum 2 weeks'.

Cases: 1800697/2020 &
1800710/2020