



# EMPLOYMENT TRIBUNALS

**Claimant: Ms S Matharu**

**Respondent: Lola Rose Interiors Ltd.**

**On: 12 June 2020**

**Employment Judge Shepherd**

## JUDGMENT

1. The claim of unauthorised deduction from wages succeeds and the respondent is ordered to pay the claimant the net sum of £1,616.04.
2. The claim of failure to provide written statement of employment particulars pursuant to section 38 of the Employment Act 2002 is dismissed.
3. The claim of unfair dismissal is dismissed.

## Reasons

1. The rule 21 judgment having been revoked and the parties having provided written representations. Also, in accordance with rule 72, the parties have been given a reasonable opportunity to make further written representations, I have considered the submissions and documents and reached a conclusion based on the papers with the parties' agreement.
2. The claim for unfair dismissal is dismissed as the claimant did not have two years continuous employment as required by section 108 of the Employment Rights Act 1996.
3. I am satisfied that the respondent had provided the claimant with written particulars of employment by means of a text message dated 21 October 2019 those particulars confirm the vast majority of the requirements pursuant to section 1 of the Employment Rights Act 1996. In those circumstances I am satisfied that there are exceptional circumstances which

would make an award unjust or inequitable pursuant to section 38(5) of the Employment Act 2002.

4. I have considered all the documentation and the response from the respondent in respect of the claim for unauthorised deduction from wages.

5. The claimant received a wage slip for £1,616.04 in respect of hours worked.

6. On 16 March 2020 the respondent sent an email to the Tribunal in that email was stated:

“Pay has been withheld for Sunita due to her failing to meet standards set out in her terms of employment, not following procedures leading to loss of money and persistently being late for work or closing the shop early and fraudulently claiming for hours not worked on her timesheet...”

7. In the response it was indicated that the claimant had attempted to defraud the respondent by being offered a higher paid position and job title due to her being degree educated. There are references to complaints from other members of staff, money stolen from safe and missing from daily cash sales. It was stated that the claimant had been spoken to many occasions regarding being late for work. There was reference to CCTV cameras showing that the claimant started late or finished early on a number of occasions. There are no CCTV cameras inside the premises and I do not accept that it was shown that that the claimant did not work the hours for which the payslip was issued.

8. There were references to the claimant causing unrest between the staff and other matters was said to be a result of the claimant’s behaviour. The respondent has also referred to money that should have been left in the petty cash tin in respect of a footstool and the claimant not following company procedures for handling incoming cash or staff benefits.

9. Section 13 of the Employment Rights Act 1996 provides as follows:

“Right not to suffer unauthorised deductions

(1) An employer shall not make a deduction from wages of a worker employed by him unless –

(a) the deduction is required or authorised to be made by virtue of the statutory provision or a relevant provision of the worker’s contract or

(b) the worker has previously signified in writing his agreement or consent to the making of the deduction.”

10. In this case it was not shown that there was statutory provision or provision of the claimant’s contract which allowed for the deduction of wages. The claimant did not provide written agreement to the deduction.

11. In those circumstances, having considered all the written evidence and submissions, I am satisfied that the claim for unauthorised deduction from wages is well founded and succeeds. The amount of the deduction being in the unpaid wage slip. The respondent is ordered to pay the claimant, the net sum of £1,616.04

**Case No: 1801247/2020**

**Employment Judge Shepherd**

**Date:12 June 2020**