



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr H Bassil

**Respondent:** Payne Records Limited

**Heard at:** London Central via CVP

**On:** 8 October 2020

**Before:** Employment Judge Wisby (Sitting Alone)

## Representation

Claimant: In person

Respondent: Not in attendance

# JUDGMENT

1. The tribunal declares that the respondent failed to provide the claimant written itemised pay statements in accordance with section 8 Employment Rights Act 1996 for the months of March and April 2020.
2. The tribunal declares that the respondent made unlawful deductions amounting to £12,180 (gross) from the claimant's wages. The respondent is ordered to pay £12,180 (gross) in respect of unpaid wages.

# REASONS

## Evidence before the Tribunal

3. The tribunal was presented with:
  - 3.1. A copy of the claimant's contract of employment

3.2. A copy of the payslips the claimant received

4. The tribunal was also shown the deposits made into the claimant's bank account by the respondent and Mr Tello.

### **Preliminary matters and Issues**

5. The ET1 and particulars of claim were served by the tribunal on the respondent by post in the usual way.
6. No ET3 form with grounds of resistance was submitted to the tribunal by the respondent by the stated deadline.
7. On 7 October 2020 Mr Miguel Tello, after receiving today's hearing joining instructions from the tribunal, emailed the tribunal to state that he was a director of the respondent company and had the power to represent the company but that the hearing notification was the first he had about the claim and he was unclear what it was about.
8. Mr Tello stated in his email that he was "more than happy to attend this tomorrow".
9. Mr Tello was emailed a copy of the claimant's ET1 and particulars of claim.
10. After receipt of a copy of the ET1 Mr Tello emailed the tribunal on 7 October 2020 stating: "I am unable to attend the session tomorrow as it has been notified to myself with less than 24 hours in advance and I do have my right to be notified and be legally prepared about the matter. Could we please reschedule to a later point?"
11. I considered the request for a postponement but have not granted it because: the respondent was served the ET1 but no ET3 was submitted; the claim is not factually complex; Mr Tello had said he was available to attend the hearing and had the power to represent the company; and legal representation is not required at the employment tribunal.
12. At the start of the hearing the issues left to be dealt with were identified as follows:

### **13. *Unauthorised deductions and Pay slips***

- 13.1. Did the respondent(s) make unauthorised deductions from the claimant's wages in accordance with the Employment Rights Act 1996 section 13?
- 13.2. Did the respondent fail to provide itemised pay statements in accordance with section 8 Employment Rights Act 1996 for the months of March and April 2020.

### **Findings of Fact**

14. The claimant was employed from 22 July 2019 to 21 April 2020.

15. The claimant was contracted to work 40 hours per week at a rate of £10.50 gross per hour as a personal CEO assistant. This resulted, as shown on the claimant's pay slips, in the claimant's being paid monthly gross pay of £1820. The claimant's wages were due to be paid on the final working day of each month with payment being in arrears.
16. Comparing the net pay shown as due on the claimant's payslips with the deposits made into the claimant's bank account it can be seen that the sums deposited on the following dates:
  - 16.1. 07 Oct 2019: £700.00;
  - 16.2. 16 Oct 2019: £185.30;
  - 16.3. 22 Oct 2019: £1000.00;
  - 16.4. 13 Nov 2019: £533.92;
  - 16.5. 23 Dec 2019: £600.00;
  - 16.6. 06 Jan 2020: £200.00; and
  - 16.7. 19 Mar 2020: £200.00,

cover the wages due to the claimant in respect of the months of July, August and September 2019. The remaining wages remain outstanding.

17. In addition to the wages deposited, the claimant's bank records show two very small payments of 1p and £5 were deposited by the respondent and that the claimant repaid a cash loan of £40 to the respondent.
18. The claimant did not receive the wages due to him for the months of October 2019 – February 2020 (inclusive). The claimant did receive pay slips for these months showing gross pay for each month as being £1860.
19. Additionally the claimant did not receive wages for the month of March 2020, nor the 3 weeks he worked in April 2020 prior to his resignation. He did not receive pay slips for these two periods.
20. The claimant was not furloughed and no agreement for reduced working hours was made.
21. The claimant is due £10,920 (gross) for the 6 months of October 2019 – March 2020 (£1820 x 6) and £1260 (gross) for the month of April (£10.50 x 40 hours x 3 weeks). In total the claimant is owed £12,180 (gross) pay. Since the payment due is in respect of unpaid wages, appropriate income tax and national insurance payments will need to be accounted for to HMRC.

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Employment Judge Wisby

08/10/2020

JUDGMENT & REASONS SENT TO THE PARTIES ON

09/10/2020.

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FOR THE TRIBUNAL OFFICE