



## EMPLOYMENT TRIBUNALS

**Claimant:** Mr M Omar

**Respondent:** UKRO Ltd

**Heard at:** London Central Employment Tribunal **On:** 10<sup>th</sup> December 2020 at 2pm

**Before:** Employment Judge Hopton

**Appearances (by video):**

**For the Claimant:** Mr Kutty

**For the Respondent:** Did not attend

## JUDGMENT

The judgment of the tribunal is that:

1. Claim number 2203930/20 is dismissed on withdrawal by the claimant.
2. The respondent made an authorised deduction from wages by failing to pay the claimant furlough payments and is ordered to pay to the claimant the sum of **£8966.38 net**, being the total amount of payments due to him.

## REASONS

1. This was a remote hearing to which the parties did not object. The form of remote hearing was V, video, by Cloud Video Platform. A face to face hearing was not held because it was not practicable due to the coronavirus pandemic and the number of hearing rooms available at Victory House.
2. There was no bundle of documents and no witness statements were submitted to the tribunal. The respondent did not appear at the hearing to defend the claim and has not served a response. The ET1 was served on what appears to be the correct address. The tribunal clerk telephoned the respondent's landline telephone at 2pm at the start of the hearing and spoke to a receptionist who was not aware of the claim. This suggests that the company is still active and there was no good reason why the respondent did not attend.

3. Mr Omar is a Somalian speaker and was not confident using English. He was assisted at times with translation by Mr Ali, who explained he was from a Somalian charity. I was mindful that Mr Ali was not an interpreter engaged by the tribunal. However, having regard to the overriding objective to deal with cases fairly and justly and avoiding delay, I decided it was proportionate to allow Mr Ali to assist Mr Omar to understand proceedings, particularly since I only need to ask Mr Omar one question in evidence (regarding the date of his last payment) and I was shown documentary evidence to confirm what he said. Mr Omar took the oath in English and Mr Ali explained to him what it meant.
4. Mr Omar is still employed by the respondent although the respondent has not been in touch with him or paid him for some weeks. Mr Kutty confirmed the only claim that is pursued today is the unlawful deductions from wages claim.
5. The issues to be decided were:
  - 5.1. Was claim number 2206622/20 made in time?
  - 5.2. Did the Claimant receive all the furlough payments to which he was entitled?
6. The claimant is a kitchen porter employed by the respondent. He claims that he was underpaid furlough payments in April, May, June and July 2020 and that he was not paid furlough payments to which he was entitled in August, September, October, November and December 2020.
7. The claimant made a claim against Buddha-Bar Restaurant in July 2020. This was given claim number 2203930/2020 and was received by the tribunal on 3 July 2020.
8. The claimant made a claim against UKRO Limited in October 2020. This was given claim number 2206622/2020 and was received by the tribunal on 9 October 2020.
9. It appears that UKRO Limited is the correct respondent as that is the name on the most recent of the claimant's payslips.
10. Mr Omar confirmed that he was last paid in July but he could not remember the date. The respondent did not pay on a consistent date each month. With Mr Omar's agreement, Mr Kutty was able to hold up to the camera a copy of the claimant's bank statement that showed he was paid £282.92 on 21 July (being one of the fortnightly payments he received in July).
11. Mr Omar claims a series of deductions from his pay. Although the timing of the payments was variable, payments were made towards the end of the month and also generally at some point between 6<sup>th</sup> and 8<sup>th</sup> of the month. I therefore find that payments ought to have been made on 8<sup>th</sup> and 21<sup>st</sup> of each month.
12. Claim number 226622/20 against UKRO Limited received by the tribunal on 9/10/2020 is therefore within time as the last deduction at the time the claim was received was 8 October 2020.

13. Mr Kutty confirmed that claim number 2203930/20 against Buddha-Bar restaurant was withdrawn. It is dismissed.
14. The claimant's pay was £763.22 net per fortnight. This amounts to £1653.64 per month. 80 per cent of this figure is £1322.91.
15. In April the Claimant was paid £580.84 net. In May, June and July he was paid £565.84 net per month.
16. He was paid no wages between August and December 2020.
17. There were therefore deductions from the claimant's wages in the sums of (net):
  - 17.1. **£742.07** in April 2020
  - 17.2. **£757.07** in each of May, June and July amounting to: **£2271.21**
  - 17.3. **£1322.91** in each of August, September, October and November 2020 amounting to: **£5291.64**
  - 17.4. **£661.46** in December 2020.
  - 17.5. In total these sums amount to: **£8966.38**

**Employment Judge Hopton**

11/12/2020

JUDGMENT & REASONS SENT TO THE PARTIES ON

12/12/2020

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FOR THE TRIBUNAL OFFICE