



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

**Mr M Simmons-Daniels**

**v Critical Electrical Solutions Limited**

**Heard at:** Watford

**On:** 11 December 2020

**Before:** Employment Judge Alliot (sitting alone) by CVP

## Appearances

**For the Claimant:** In person

**For the Respondent:** Mr Dale Smallshaw (Director)

## JUDGMENT

The Judgment of the Tribunal is that the claimant's claim for unauthorised deduction of wages is well founded and the respondent is ordered to pay him the net sum of £1,100.44.

## REASONS

1. The claimant's employment was terminated upon dismissal on 15 May 2019.
2. It is common ground that at the date of dismissal the claimant was due the gross sum of £1,264.38 for pay and holiday entitlement.
3. The respondent made five deductions from the sums due. Two relate to Tax and National Insurance and one is £6.50 for a key that the claimant does not dispute.
4. The two contentious deductions are:
  - 4.1 £899 for a laptop computer;
  - 4.2 £487.78 for repairs to a third party vehicle the claimant crashed into.
5. The claimant had a laptop computer for use with his work. On the termination of his employment the claimant was required to return it. He did so. It was collected by two of the respondent's workforce. It was in working order. The

respondent alleges that when it restored Google Chrome to the laptop, links to the claimant's personal account were discovered and that the links were to pornography. The respondent took the laptop to the police who subsequently returned it to the respondent, presumably as there was no evidence of criminality. The respondent states that due to the sensitive nature of its work, it could not use the laptop as the links may have introduced malicious content and the laptop may not have passed security clearance for sensitive sites. The respondent states that it has disposed of the laptop. No evidence of value has been placed before me.

6. The respondent states that the claimant never had permission to use the laptop for personal purposes. There is nothing in the contract of employment to this effect and no documentary evidence has been placed before me that permission was required. It would appear that there was nothing unlawful on the computer. Apart from Mr Smallshaw's assertion, I have no evidence that a perfectly workable laptop could not be used or that any content could not have been deleted or guarded against by anti-virus software. I have no evidence of the value of the laptop.
7. The vehicle damage deduction relates to an accident the claimant had in January 2019. The claimant accepts that it was his fault. He reversed into another vehicle. The respondent's insurance policy had an excess of £500. Although no evidence has been produced, I am prepared to accept that £487.78 was paid by the respondent to the third party.
8. The respondent seeks to justify the deductions as being authorised by the claimant's contract of employment (s.13(1)(a) ERA 996). The courts will scrutinise any contractual term carefully to make sure that it authorises the deduction in question. Employers are unlikely to be able to rely on clauses that are ambiguous or too widely drafted. For example, a clause which gave an employer the power to deduct "any sums due to the employer from the employee for whatever purpose" was held to be too widely drawn to constitute a "relevant provision", Galletly v Abel Environment Services Ltd ET.
9. The clauses the respondent relies upon are as follows:-

9.1 "4. Pay and expenses:

...

During your employment or upon termination of your employment, the company will be entitled to make deductions from your pay for any monies owed to the company."

9.2 "11. Notice Period

...

The company reserves the right to pay the employee on termination of the Employment Contract in lieu of notice after the permitted deductions have been made, for example Tax, National Insurance, unlawful loss and costs to the company."

10. In my judgment these clauses are ambiguous and too widely drafted. How are monies owed to the company to be ascertained? What unlawful loss or costs to the company would constitute permitted deductions?

**Conclusions**

11. The respondent has not proved that the laptop was damaged beyond repair and has not proved the value of it.

12. The deductions made were, in any event, not authorised to be made by a provision in the contract.

13. Accordingly the respondent has made unauthorised deductions from the claimant's pay and is ordered to pay him the sum of £1,100.44 (£1,264.38 - £92 Tax, - £65.44 NI and - £6.50 key).

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Employment Judge Alliot

Date: .....12/1/2021..

Sent to the parties on: ..3/2/2021.....

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For the Tribunal Office