



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4107171/2020 (V)

Held via Cloud Video Platform (CVP) on 29 January 2021

Employment Judge Murphy (sitting alone)

Ms A Gibula

**Claimant
In Person**

Windparkservice UK Ltd

**Respondent
No appearance and
No representation**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

1. The Respondent has made an unauthorized deduction from wages contrary to section 13 of the Employment Rights Act 1996 and the Respondent is ordered to pay to the Claimant the sum of £4,523.08 in respect of unpaid wages (including two weeks' holiday pay) in respect of the period from 1 August to 15 September 2020.
2. The Respondent is ordered to pay to the Claimant the further sum of £150 to compensate the Claimant for financial loss sustained by her attributable to the Respondent's unauthorised deduction.
3. The sum awarded in item 1 is expressed gross of tax and national insurance. It is for the Respondent to make any deductions lawfully required to account to HMRC for any tax and national insurance due on the sums, if applicable.

REASONS**Findings in Fact**

1. The tribunal made the following findings in fact.
2. The Claimant was employed by the Respondent from 24 May 2018 to 15 September 2020. She was latterly employed as Sales and Operations Manager with responsibility for the UK branch on a salary of £36,000 per annum.
3. The Claimant served notice to terminate her employment, which notice expired on 15 September. The Claimant had agreed with the Respondent that she would take two weeks' outstanding holiday during her notice period from 2nd to 15th September. This exhausted the Claimant's accrued annual leave entitlement to 15 September 2020 when her employment ended.
4. The Respondent did not pay the Claimant for the period from 1 August to 15 September 2020. The Claimant was entitled to wages in the gross amount of £4,523.08 for this period. This sum, had it been paid, would have included the period of holiday in September.
5. The Claimant engaged in correspondence and calls with the Respondent to try to recover the unpaid wages. She visited the Respondent's Managing Director in Germany and received assurances that the sums would be paid to her. The unpaid wages were not repaid as advised.
6. The Claimant has a mortgage on her home. As a result of the Respondent's deductions, she suffered charges and required to borrow money from friends because she could not secure a bank loan to cover her mortgage payment and other bills. The Claimant has got into debt because of the deductions.
7. The Claimant had originally claimed the sum of £872.83 in respect of expenses which she had incurred for which she had not been reimbursed by the Respondent at the time when she lodged her claim on 10 November 2020. The Claimant received payment of the outstanding expenses on or about that date and no longer pursues her claim for unpaid expenses.

8. A Notice of this claim and hearing was sent to the Respondent's registered office in the UK on 17 November 2020. The Notice was subsequently sent to the Respondent's place of business in Germany on 10 December 2020. The Respondent did not enter a response to the claim and did not participate in the hearing.

Relevant Law

9. Under the section 13 of the Employment Rights Act 1996 ("ERA"), a worker has the right not to suffer unauthorized deductions from her wages. Under section 23 of ERA, a worker may complain to an employment tribunal that an employer has made a deduction from her wages in contravention of section 13. Where a tribunal finds such a complaint well founded, it shall make a declaration to that effect and order the employer to pay the amount of the deduction (section 24 ERA).
10. Where a tribunal makes such an order, it may order the employer to pay the worker such additional amount as it considers appropriate in all the circumstances to compensate the worker for any financial loss sustained by her which is attributable to the matter complained of (section 24(2)). The tribunal may not award compensation in respect of financial loss such as upset and injury to feelings under section 24(2).

Discussion and Decision

11. The Claimant's undisputed evidence was that she was not paid for the months of August and September 2020 and suffered a deduction from her wages in the gross sum of £4,523.08.
12. The Claimant suffered financial losses in consequence of the deductions made. The tribunal awards the sum of £150 to compensate the Claimant for financial loss incurred attributable to the Respondent's deduction.

Employment Judge: Lesley Murphy

Date of Judgment: 31st January 2021

Entered into Register: 25th February 2021

Copied to Parties