



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4111240/2019

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Employment Judge Ian McPherson

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Mrs Andzelika Tomaszewska

**Claimant
per Written
Representations**

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Hollywood Nails and Hair Extensions Bar Limited

**Respondent
per Written
Representations**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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Further to the Tribunal's Reconsideration Judgment dated 10 August 2020, as sent to both parties on 12 August 2020, and the claimant having written to the Tribunal, by email on 22 September 2020, to request a Final Hearing, on the basis that the respondents are not ready to pay the owed wages, the further judgment of the Employment Tribunal, in exercise of the Tribunal's powers under **Rule 21 of the Employment Tribunal Rules of Procedure 2013**, and that without a Hearing, and having considered parties' written representations in chambers, is that :

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(1) It is now appropriate to issue the following judgment, on the material available to the Tribunal, the respondent having accepted, in the email of 28 June 2020 to the Tribunal from their director, Valentina Capizzi, that the claimant is due a total of **£905** in respect of unpaid wages. Accordingly, the Tribunal finds that the respondent has made an unauthorised deduction from the claimant's wages in that agreed amount, and the respondent is accordingly ordered to pay the claimant the sum of **NINE HUNDRED AND FIVE POUNDS**.

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(2) As regards any further sums sought by the claimant, in respect of unpaid wages, notice pay, sick pay, and holiday pay, the Tribunal orders that those

complaints shall be listed for an in person, 1 hour Final Hearing before an Employment Judge sitting alone at the Glasgow Employment Tribunal, for full disposal, including remedy, if appropriate, on a date to be hereinafter fixed by the Tribunal, and intimated to both parties by formal Notice of Final Hearing to be issued under separate cover.

REASONS

1. I refer to my Reconsideration Judgment dated 10 August 2020, as sent to both parties on 12 August 2020, for the background to this case. As stated there, if the case was not resolved between the parties, through ACAS, or otherwise, then the Tribunal would list the case for a Final Hearing in due course.
2. At paragraph 13 of the Reasons to that Reconsideration Judgment, I ordered that the respondent was called upon, within 14 days of issue of that Judgment, to clarify the amount they accept is due to the claimant, and the claimant was to confirm, within the same 14-day period, any further sums that she alleged were still due to her, explaining the basis of her calculation. On receipt of that further information, from both parties, further procedure was to be directed by the Judge.
3. Until receipt of the claimant's email to the Tribunal, sent on 22 September 2020, requesting a Final Hearing, on the basis that the respondents are not ready to pay the owed wages, there has been no further correspondence, from either party, since that Reconsideration Judgment.
4. Having considered the case, in chambers today, and on the papers only, the claimant's email having been referred to me for direction, I have decided that it is now appropriate to issue a **Rule 21** judgment, on the material available to the Tribunal, the respondent having accepted, in the email of 28 June 2020 to the Tribunal from their director, Valentina Capizzi, that the claimant is due a total of **£905** in respect of unpaid wages.
5. In her email of 28 June 2020, Mrs Capizzi stated that she was unable at that moment in time to make payment of that agreed sum of £905 to the claimant,

but she hoped to pay in instalments from August / September. From the claimant's email of 22 September 2020, the respondent is not ready to pay the owed wages, and so the claimant has stated she would like to go ahead with the Final Hearing.

5 6. In these circumstances, where inability to pay an agreed sum is not a defence to a claim, I have granted judgment in the claimant's favour for the full sum of £905. It is not competent for the Tribunal to give judgment for payment by instalments, as that is not within the Tribunal's express statutory powers, in the absence of any **Rule 64** consent agreed between the parties.

10 7. While that deals with part of the defended claim against the respondent, it leaves unaddressed other parts of the claim, so that they must now proceed to a Final Hearing, which I have ordered. At the Hearing before Employment Judge Young, on 11 December 2019, as per his written Note and Orders issued on 8 January 2020, Mrs Capizzi conceded that the claimant had not
15 received payment for holiday pay accrued but untaken. Judge Young suggested a calculation in that regard of **£182.96** to assist parties in coming to a resolution.

8. While the claimant had sought **£1,128** in respect of unpaid wages, but the respondent has only agreed **£905**, if the claimant still seeks the difference,
20 then that will be a matter for the Final Hearing, as will the disputed issue of the claimant's entitlement (if any) to notice pay and sick pay. Parties are reminded of the availability of the services of ACAS to assist them in resolution of their dispute.

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Employment Judge: Ian McPherson
Date of Judgment: 15 October 2020
Entered in register: 29 October 2020
and copied to parties

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