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## EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4100299/2021

Held in Glasgow by Cloud Video Platform (CVP) on 6 April 2021

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Employment Judge B. Beyzade

Mr Ewan McArthur

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Claimant  
In Person

Hillcrest Finance Limited

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Respondent  
Not Present  
Not Represented

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## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

**The Judgment of the Tribunal is that:**

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1. The complaint of unauthorised deduction from wages in respect of the Claimant's unpaid wages that were due to be paid to him in November and December 2020 is well founded and the Respondent is ordered to pay the Claimant the sum of **ONE THOUSAND FIVE HUNDRED AND SIXTY-ONE POUNDS AND EIGHT PENCE [£1561.08]** from which tax and national insurance requires to be deducted, provided that the Respondent intimates any such deductions in writing to the Claimant and remits the sum deducted to Her Majesty's Revenue and Customs.

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2. **Within 7 days of issue of this Judgment**, the Respondent shall comply with the undernoted Case Management Orders, as set forth below at paragraphs 2 and 3 of the Reasons, and provide to the Tribunal its response to the Claimant's submission that a financial penalty should be payable by the Respondent pursuant to section 12A of Employment Tribunals Act 1996, and send a copy to the claimant, at the same time as intimating to the Tribunal;
3. **Within 7 days of issue of this Judgment**, the Respondent shall comply with the undernoted Case Management Orders, as set forth below at paragraphs 4 and 5 of the Reasons and provide to the Tribunal its response to the Claimant's application for an Expenses and a Preparation Time Order pursuant to Rules 74-84 of the Employment Tribunals (Constitution and Rules of Procedure Regulations 2013), and send a copy to the claimant, at the same time as intimating to the Tribunal.

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## REASONS

1. Oral reasons were given at this Hearing held via Cloud Video Platform (CVP).
2. The Claimant also invited the Tribunal to order the Respondent to pay a financial penalty to the Secretary of State pursuant to section 12A of the *Employment Tribunals Act 1996*. The Tribunal is of the preliminary view that there are one or more aggravating features of this case namely the repeated assurances by the Respondent to make payments to the claimant, the Respondent sending the Claimant a screenshot of its bank account and purporting to have paid the money owed to him (which was not in fact the case), and the Respondent declaring to Her Majesty's Revenue and Customs that it was paying £1200.00 a month to the Claimant and thereby creating difficulties in terms of the Claimant's ability to claim Universal Credit. The Claimant avers that he was in financial difficulty and exceptional hardship because of the Respondent's conduct.

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3. It is proposed that the amount of such an order should be £780.54 (that is 50% of the amount that the Tribunal has awarded the Respondent to pay to the Claimant in his wage arrears claim). In order to inform the Tribunal's consideration of this matter the Tribunal directs that the Respondent shall show cause **within 7 days of issue of the Judgment** as to a) why the Tribunal should not make an order for the Respondent to pay a financial penalty and b) to set out any particulars in relation to the Respondent's means and ability to pay such an order.
4. After judgment was delivered at the Hearing, the Claimant made an oral application for an Expenses Order and Preparation Time Order. The Claimant submitted that under Rule 76(a) the Respondent acted unreasonably in relation to the Tribunal process by failing to turn up to the hearing or to respond to the claim and that pursuant to Rule 76(b) the Respondent had no reasonable prospects of successfully defending the claim due to the evidence provided by the claimant. The Claimant referred to the Respondent sending him a screenshot dated 22 December 2020 from its bank account purportedly showing that the money owed was paid to him when this was not in fact true. After the claim was issued there were further assurances made that the money owed would be paid that did not materialise, there were further issues with HMRC and the Claimant faced difficulty obtaining Universal Credit, and he and his family were caused financial issues. The Claimant claimed preparation time of six hours he spent preparing his claim and his papers at £41.00 per hour (totalling £246.00) plus £85.00 expenses he incurred in instructing a solicitor to provide him with advice on his claim and preparation of documents.

5. I reserved my judgment in relation to the Claimant's application. I did not have any information in relation to the Respondent's ability to pay an Expenses or Preparation Time Order (Rule 84). The Respondent shall **within 7 days of the**  
5 **issue of the Judgment** respond to the Claimant's application showing cause as to a) why the Order should not be made and b) to set out any particulars in relation to the Respondent's means and ability to pay such an order.
6. Following expiry of the timeframe referred to in paragraphs 3 and 5 above, I direct that the outstanding matters shall be determined on paper (without  
10 further hearing) in accordance with the Tribunal's overriding objective (Rule 2). If either party objects to this, the party must write to the Tribunal, copying any correspondences to the other party (in accordance with Rule 92) **within 7 days of issue of the Judgment.**

15 I confirm that this is my Judgment or Order in the case of 4100299/2021 Mr Ewan McArthur -v- Hillcrest Finance Limited and that I have signed the order by electronic signature.

Employment Judge: B Beyzade  
20 Date of Judgement: 6 April 2021  
Entered in register: 29 April 2021  
and copied to parties

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30 **Note - Reasons for the Judgment having been given orally at the Hearing, written reasons will not be provided unless a request was made by either party at the Hearing, or a written request is presented by either party within 14 days of the sending of this written record of the decision.**