



EMPLOYMENT TRIBUNALS (SCOTLAND)

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**Judgment of the Employment Tribunal in Undefended Case No:
4102230/2020 Issued Following Final Hearing Held at Edinburgh on 24th of
August 2020**

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Employment Judge J G d’Inverno

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Ms J Campbell

**Claimant
In Person**

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Audrey Thorburn

**Respondent
Not appearing and not
represented**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal issued in terms of sections 8, 11, 12(1), 12(2), 12(3) and 12(4) of the Employment Rights Act 1996 (“ERA”) is:-

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(First) That the respondent having failed to provide the claimant with written itemised pay statements, including statements of fixed deductions, for all but one two week period, over the course of her employment with the respondent in the period 7th December 2019 up to and including 21st January 2020, the claimant is entitled to a declaration and determination of the particulars which ought to have been included in her itemised pay slips and the respondent is hereby deemed, in terms of section 12(1) of the ERA, to have given the claimant statements in which particulars were included as follows:-

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Missing Pay Statement	Pay Period	Hours Worked and Hourly Rate of Pay	Gross Amount	Tax Code	Deductions	Net Payment
1	7 th to 13 th December 2019	34 hours x £8.21	£279.14	NT	Tax nil National Insurance £1.31 NEST (pens) <u>£5.58</u> Total Deductions <u>£6.99</u>	Net amount £272.15
2	14 th to the 27 th December 2019 Pay statement provided therefore not the subject of a declaration	59.5 hours x £8.21	£488.50	S1250Lw1m1	Tax £1.33 NI £18.78 NEST £10.10 Overpayment <u>£6.13</u> Total Deductions <u>£36.34</u>	£452.16
3	28 th December 2019 to 10 th January 2020	68 hours x £8.21	£558.28	NT	Tax nil NI £23.07 NEST <u>£11.17</u> Total Deductions <u>£34.24</u>	£524.04

4	11 th January 20 to 20 th January 20	41 hours x £8.21	£336.61	NI	Tax nil NI nil NEST <u>£6.73</u> Total Deductions <u>£6.73</u>	£329.88
5	21 st of January 2020	8.5 hours x £8.21	£69.79	NT	Tax nil NI nil NEST <u>£1.49</u> Total Deductions <u>£1.49</u>	£68.39

(Second) The claimant was entitled to be paid at a contractual rate of £8.50 per hour against which entitlement the respondent paid the claimant at the rate only of £8.21 per hour for the total of 170 hours worked by her during the course of her employment.

(Third) In the period 7th December 2019 up to and including 21st January 2020 the respondent made an unnotified and unauthorised deductions from the claimant's wages in the total sum of £49.30 being (29 pence x 170 hours) contrary to the provisions of section 13 of the Employment Rights Act 1996 and in breach of the claimant's Contract of Employment and the Tribunal Orders the respondent in terms of section 12(4) to pay to the claimant forthwith the sum of £49.30 (FORTY NINE POUNDS AND THIRTY PENCE) being an amount equivalent to the deduction.

REASONS

1. This case in which the respondent had failed to enter appearance called for undefended Final Hearing by Telephone Conference at Edinburgh on the 24th August 2020.

2. The claimant participated on her own behalf and gave evidence on oath which the Tribunal accepted as both credible and reliable.
3. On the evidence presented the Tribunal found that the respondent had, with
5 the exception of the period 14th to 27th December 2019, had failed to provide the claimant with written itemised pay statements including statements of fixed deductions during the period of her employment.
4. That the claimant was entitled to a declaration to that effect and a
10 determination of the relevant particulars of the detailed amounts which should have appeared on her wage statements in the terms recorded by the Tribunal at paragraph **(Second)** of its Judgment of 2 September 2020 all in terms of sections 8, 11 and 12 of the ERA.
- 15 5. That whereas the claimant was entitled to be paid at a contractual hourly rate of £8.50 the respondent had, throughout her employment of 170 hours worked, paid her only at the rate of £8.21; and accordingly, that the respondent had made an unauthorised and unnotified deduction from the claimant's wages contrary to the provisions of section 13 of the Employment
20 Rights Act 1996 in the total sum of 170 hours x 29 pence = £49.30 and that the respondent be ordered to pay to the claimant forthwith a sum equivalent to that deduction.

25 Employment Judge: Joseph d'Inverno
Date of Judgment: 10 September 2020
Entered in register: 24 September 2020
and copied to parties