



EMPLOYMENT TRIBUNALS

Claimant: Ms K Dobson

Respondent: Gursher Singh Bal

Heard: Remotely (in public by video) On: 12 August 2021

Before: Employment Judge Shepherd

Appearances

For the claimant: In Person

For the respondent: In Person

JUDGMENT

The claim for unauthorised deduction from wages is not well-founded and is dismissed and it is dismissed as the Tribunal has no jurisdiction to hear the claim.

REASONS

1. I heard evidence from Kizzy Dobson, the claimant and Gursher Singh Bal, the respondent.
2. I had sight of the Employment Tribunal file of papers which included all the evidence provided by the parties.
3. Having considered the evidence, both oral and documentary, I make the following findings of fact on the balance of probabilities.
4. The claimant was employed by the respondent from 10 May 2019. She presented a claim for on 27 May 2020. The claimant was in respect of entitlement to statutory sick pay. At a preliminary hearing before Employment Judge Little on 17 August 2020 it was explained that the Tribunal cannot make a decision as to whether she was entitled to statutory sick pay. However, if there is no dispute about the entitlement, statutory sick pay is included in the legal definition of wages.
5. In a Case Management Order following a preliminary hearing on 28 October 2020 Employment Judge Parkin explained that, in the case of Taylor Gordon & Co.Ltd v

Timmons [2004] IRLR 180 the Employment Appeal Tribunal held that because there is a mechanism for seeking resolution of such disputes via HMRC, this precludes the Employment Tribunal's jurisdiction to deal with such a dispute.

6. The HMRC resolved the dispute regarding entitlement to SSP and the respondent paid the amount in full on 18/19 November 2020.

7. On 10 June 2021 the Tribunal wrote to the claimant indicating that Employment Judge Cox had directed as follows.

“The claimant accepts that she is now been paid what she is owed.

The claimant claims compensation for injury to feelings and personal injury but the Tribunal has no power to award compensation for that in the claimant this nature.

The claimant says that she has suffered financial loss as a result of late payment. The Tribunal has discretion to order appropriate compensation in respect of financial loss attributable to an unauthorised deduction from wages, but will not do so unless it accepts that there has in fact been an unauthorised deduction, and the claimant has been caused loss by that deduction. The Tribunal we need to have evidence of that loss. If the claimant has any documentary evidence of financial loss caused by the late payment , this must be sent to the respondent and the Tribunal at least 14 days before the hearing.”

8. The claimant said that she was unaware of what more could be provided. The claimant remains dissatisfied by the late payment of the SSP. However, it is clear that the dispute was with regard to the entitlement to SSP. Disputes in this regard are within the jurisdiction of the HMRC and not the Employment Tribunal.

9. Whilst I have some sympathy with the claimant, the claim for unauthorised deduction from wages is not well-founded as the issue of entitlement to SSP was determined by the HMRC following which the respondent provided the claimant with payment in this regard.

10. In those circumstances, the claim for unauthorised deduction from wages is not well-founded and is dismissed.

Employment Judge Shepherd
12 August 2021

Sent to the parties on:
16 August 2021