



EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case No: 4106884/2020 Hearing by Cloud Video Platform (CVP) on 7 September
2021

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Employment Judge: M A Macleod

Katarzyna Grabowska

Claimant
In Person

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Matthew Boyle

First Respondent
Not Present and
Not Represented

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Cardowan Limited

Second Respondent
Not Present and
Not Represented

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal is that the respondent unlawfully deducted payments from the claimant's wages, and therefore that the respondent is ordered to pay to the claimant the sum of **One Thousand One Hundred and**
30 **Eighty Five Pounds and Sixty Seven Pence (£1,185.67).**

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REASONS

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1. The claimant presented a claim to the Employment Tribunal on 29 October 2020 in which she complained that the First Respondent had unlawfully deprived her of pay and holiday pay.

2. The First Respondent submitted an ET3 response in which it was stated that they intended to resist the claims, but indicated that they accepted that certain payments were due to the claimant.
3. On 21 January 2021, a Hearing took place before Employment Judge Shepherd, and was adjourned in order to allow the Second Respondent to be added as a respondent to the proceedings, and the claim to be served upon them.
4. A further Hearing was listed to take place by CVP on 7 September 2021. No ET3 was received in the meantime from the Second Respondent.
5. The claimant appeared on her own behalf at the Hearing and produced a number of documents in support of her claims. The First and Second Respondents did not appear, nor were they represented. On the basis that the First Respondent had not attended at the Hearing in January 2021, and that the Second Respondent had not presented a defence to the claim, I proceeded with the Hearing in their absence on the basis that it was clear that they did not wish to participate nor maintain a defence to the claim.
6. The claimant gave evidence, briefly on her own account.
7. Based on the evidence presented by the claimant and the information provided, I have been able to reach the following conclusions.
8. The claimant was employed by the Second Respondent from 14 June 2019 until her employment ended, as she understood it, at the end of August 2020. She was not provided with a written statement of terms and conditions of employment, nor was she issued with a letter of termination of employment setting out the reason therefor.
9. On 2 April 2020, given the developing effects of the Covid-19 pandemic, the Respondents wrote to the claimant to confirm that the business decline was such that they had to close the business, and placed her employment on furlough from 26 March 2020 for at least 3 months. The letter confirmed that she would, during this period, receive up to 80% of her wages. They

indicated that they were hopeful that they would be able to restore the claimant to employment at some point.

5 10. The claimant's complaint in relation to furlough pay is simply that she received no pay in respect of August 2020, having been paid continuously from March until July 2020 in line with the agreement.

11. The claimant received the following payments for the three months leading up to the termination of her employment:

- 29 May 2020 - £453.19;
- 26 June 2020 - £453.19; and
- 10 • 31 July 2020 - £451.01

12. On examining the payslips, it appears that the discrepancy between the payments in May and June, and that in July, was the sum of £2.18, identified as "Advance Recovery". It is unclear to what this referred, but each month the claimant had deducted from her salary the sum of £2.18 by way of employee pension.

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13. It is my conclusion that the sum due to the claimant in August 2020 was £453.19, and I award her that sum as being unpaid when no indication was given to her that her employment had ended up to that point. There was no evidence of any communication with the claimant that she would not be paid, and no agreement was made between the parties to justify withholding that payment.

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14. With regard to holiday pay, the claimant was advised by Mr Boyle (precisely when is not clear) that she was entitled to 12 days' holiday for the year 2020 to the date of termination of her employment.

25 15. On each of those 12 days, the claimant would have been entitled to be paid for 7 hours. She calculates her full daily rate of pay as £61.04, and therefore that her entitlement to holiday pay was £732.48.

16. I am prepared to accept this calculation as accurate. The First Respondent, in their ET3, acknowledged that holiday pay was due at 100% pay rate, but did not suggest that any payment had actually been made to the claimant.

5 17. Accordingly, it is my judgment that the claimant is entitled to receive the total sum of £1,185.67, and that the Respondents are ordered to pay her that sum as unlawful deductions from wages.

10 Employment Judge: Murdo Macleod
Date of Judgment: 08 September 2021
Entered in register: 09 September 2021
and copied to parties