



EMPLOYMENT TRIBUNALS

Claimant: Mr. M. Santos Dorneles
Respondent: Vinokurov Studio Ltd

Employment Judge Goodman

18 October 2021

RULE 21 JUDGMENT

1. In default of response, the claim for unauthorised deductions from wages succeeds.
2. The respondent is ordered to pay the claimant the sum of £14,267.08 before statutory deductions.
3. There will be no hearing on 20 October.

REASONS

1. This is a claim for unauthorised deductions from wages.
2. In a claim presented on 6 August 2021 the claimant states he was told on 6 May to go home. On 7 May he lodged a grievance, and on 8 May that he was told he was suspended. On 9 May the respondent wrote saying this was “to confirm that you have been suspended on full pay to allow an investigation to take place”. Since then he has not been paid. There was an investigation meeting on 11 May. He was issued with a May payslip but there was no payment to his bank account. On enquiring with the payroll staff he was told his account was frozen. He has not been told he has been dismissed, and on 25 June he was told they would keep him posted on progress..
3. He adds that on reviewing earlier payslips he has been underpaid on some weeks, but he has not identified the dates or amounts.

4. The claim was sent to the respondent on 12 August 2021 at the address given on the claim form, and the hearing was listed for 20 October.
5. The respondent was to respond to the claim on form ET3 by 9 September. The respondent has not done so.
6. I have checked the register at Companies House and am satisfied that the address of the registered office is the same as that used to serve the claim. I note too that is adjacent to the workplace address.
7. As some employers have neglected to check their post during remote working in lockdown, the tribunal asked the claimant to provide alternative addresses so it could check service. The claimant did so, and the tribunal has asked the respondent if they have responded, but there is still no reply.
8. Having considered the documents available, I conclude that the proceedings should have come to the attention of the respondent, and that there should be judgment for the claimant under rule 21 in default of response.
9. Section 13 of the Employment Rights Act 1996 provides that an employer may not make unauthorised deductions from wages. A deduction is the difference between the amount properly payable and the amount actually paid in any period.
10. On the available documents I understand the claimant has been unpaid from 7 May until now. That is 23 weeks. He was paid £2,688 per month before statutory deductions. That amounts to £14,267.08 in total.
11. Income tax is due on this sum. The claimant is reminded that if the respondent pays him this sum under PAYE, he is liable to pay the tax on the amount he receives to HMRC himself.
12. The documents sent to the tribunal by the claimant include an August 2021 letter from his pension fund stating the employer contribution has not been paid. The tribunal has no jurisdiction in respect of employer contributions while employment continues. On termination of the contract the claimant may present a claim to the employment tribunal for breach of contract in respect of employer contributions still unpaid on termination.

Employment Judge Goodman

Dated: 18 Oct 2021

JUDGMENT and REASONS SENT to the PARTIES ON

19/10/2021

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FOR THE TRIBUNAL OFFICE