



## EMPLOYMENT TRIBUNALS

**Claimant**

Mr D Shimells

**Respondent**

Ministry of Defence

**Heard at:** Scarborough Justice Centre

**On:** 13, 14 October 2021

**Before:** Employment Judge Davies

**Appearances**

**For the Claimant:**

In person with Mr M Gahan for support

**For the Respondent:**

Mr A Tinnion (counsel)

## JUDGMENT

1. The Tribunal does not have jurisdiction in the Claimant's complaint that the Respondent acted in breach of contract by suspending him from sea duties in May 2019 because the Claimant is still employed by the Respondent. Complaints of breach of contract can only be brought in the Tribunal under the Employment Tribunals (England and Wales) (Extension of Jurisdiction) Order 1994 if they arise or are outstanding on termination of the individual's employment. This complaint is therefore dismissed.
2. In respect of overtime worked on 9 December 2019 the Claimant was not complaining that the wages he was paid were less than the wages properly payable on that occasion. The complaints of unauthorised deductions from wages in respect of overtime worked up to and including 21 October 2019 were not brought within the time limit in s 23 Employment Rights Act 1996. It was reasonably practicable to bring the complaints within that time limit. The Tribunal does not have jurisdiction and these complaints are therefore dismissed.
3. In respect of the remaining complaint of unauthorised deduction from wages, the parties agreed settlement terms. Either party can apply to the Tribunal by **11 November 2021** if there is any issue in implementing that agreement. If no application is made by that date the remaining complaint is dismissed on withdrawal.

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**Employment Judge Davies**

**14 October 2021**

Sent to the parties on: