



# EMPLOYMENT TRIBUNALS

## Claimant

1. Cesar Raul Masaquiza
2. Carlos Mamani

v

## Respondent

C Palace Living Limited

**Heard at:** Watford (by CVP)  
**Before:** Employment Judge Allen

**On:** 3 December 2021

## Appearances

**For the Claimant:** Ms Warden, Caseworker

**For the Respondent:** Mr Letts, FLEx

## RECONSIDERATION JUDGMENT

1. The application was considered as a preliminary issue at the Remedy hearing on 3 December 2021.
2. The Respondent's application for reconsideration of judgment filed on 15 November 2021 is refused.
3. The Judgment of the Employment Tribunal is that there is no reasonable prospect of the judgment of 28 October 2021 being varied or revoked.

## REMEDY JUDGMENT

### Claimant 1

1. The respondent made unauthorised deductions from the claimant's wages contrary to Section 13 Employment Rights Act 1996.
2. The respondent will pay the claimant the sum of **£5,588.82** comprised as follows:

2.1. **£5,054** in respect of unauthorised deduction from wages; and

2.2. **£2,263.20** in respect of accrued holiday pay.

**Total £7347.20**

2.3. The claimant has already received the sum of **£1758.38**:  
outstanding **£5,588.82**

These sums are stated gross - they would have been paid net whilst the claimant was working for the respondent. The respondent will make this calculation and deduction before payment.

## Claimant 2

3. The respondent made unauthorised deductions from the claimant's wages contrary to Section 13 Employment Rights Act 1996.
4. The respondent denied the claimant a weekly rest break on 2 occasions between 1 - 19 July 2019 contrary to Regulation 11(1) of the Working Time Regulations 1998.
5. The respondent will pay Claimant 2 **£4,697.69** comprised as follows:

5.1. **£3,797.69** in respect of unauthorised deduction from wages

5.2. **£700** in respect of accrued holiday entitlement.

These sums are stated gross - they would have been paid net and the respondent will make this calculation and deduction before payment.

5.3. The respondent will pay in addition **£200** in respect of denial of weekly rest period on 2 occasions. This sum is not subject to deductions.

6. I am not persuaded by the respondent's argument that overtime ought to be calculated based on national minimum wage. It is usual for there to be a small uplift made in respect of overtime payments and for a larger uplift in respect of Sunday working. In the circumstances the sum claimed is reasonable and I agree with the claimant's argument that it should be calculated in accordance with the hourly rate (drawn from the day rate received by the claimant).

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Employment Judge Allen

Date: 16 December 2021

Sent to the parties on: 7/1/2022

N Gotecha

For the Tribunal Office

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.