EMPLOYMENT TRIBUNALS

Claimant: **Mrs Marie -Claire Wilson**

Respondent: **Staffordshire Leisure Group Limited**

Heard at: **Manchester** **On:** **5th January 2022**

Before: **Employment Judge Farrelly**

REPRESENTATION:

Claimant: In person
Respondent: No appearance

JUDGMENT

The judgment of the Tribunal is that:

A. The respondent has made unauthorised deductions from wages and the claimant is entitled to the following from the respondent:

(i) £359.60 being monies deducted from wages due in respect of national insurance contributions paid by the respondent whilst the claimant was on furlough.

(ii) £1153 gross being two weeks wages earned by the claimant at the start of her employment but not paid.

(iii)£1107.69 gross being accrued holiday pay for 9.6 days.

The total amount payable is £ 2620.29.

B. The judgement of the tribunal is that the respondent's claim against the claimant is dismissed.

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REASONS

1. The respondent's response was received by the tribunal on the 28 October 2021. It was eight days out of time. No explanation has been given by the respondent for this. However, the time is short and does not cause prejudice. I bear in mind procedural rules 2 and 20 and it is my conclusion it would be fair and just to extend the time and admit the response.

2. The hearing was listed for 10 AM on the 5th of January 2022 by cloud video platform. I was physically present at the tribunal centre. The claimant was present on screen . An email was received on the morning of hearing from the respondent. This had been sent the previous evening and stated that the respondent was unaware the matter had been listed and requested a postponement. The email pointed out the tribunal office had used an incorrect email, using leon@slgoup.co.uk, instead of `group.' It was not indicated how it was the respondent became aware of the hearing and contacted the tribunal.

3. I noted from the file that a written Notice of Claim had been sent to the respondent on 22 September 2021 containing their full address. It gave the date and time of the hearing. I was satisfied that the respondent had been properly notified of the hearing, notwithstanding the errors in the email. I accept the email communications were not received. I arranged for the clerk to send an email to the respondent advising them that the tribunal would wait until 11 AM and they could connect via the cloud platform. The respondent replied by email indicating they felt it was unfair to expect them to proceed in the circumstance. No further contact was made. I decided to proceed with the hearing.

4. There is no dispute from the respondent that the claimant was employed as stated. She began work on 12 October 2020 as a general manager of its public house, the Davenport Arms, Congleton Road, Marton, Cheshire. She was provided with a written contract of employment.

5. A term of the written contract was that the respondent could terminate the relationship on four weeks' notice. If the employee wanted to terminate, they were required to give eight weeks' notice.

6. With the restrictions due to Covid employees were required to sign a further agreement with the employer. This agreement provided that should the employee terminate their employment within 90 days they would forfeit their holiday entitlement and would be required to repay national insurance contributions paid by the respondent. The claimant was unhappy with this but signed the agreement.

7. The claimant became increasingly dissatisfied with her employment. She was required to move to a different place of work. A person from the new place of work was transferred to her old job and she felt she had been demoted. She also felt unfairly criticised for action she took in respect of a gas leak .She found alternative work.

8. She gave the respondent notice on the 20th of June 2021. She was paid fortnightly. She noted in the first payment for the fortnight after her notice £179.80 p had been deducted. The respondent indicated this was in respect of national insurance contributions they had paid. A further deduction was made from the next two weeks payment. She was advised that deductions totalling £1078.81 would be made whilst she served her notice. These two deductions form part of the appellants claim. On 18 July 2021 she decided to stop working for the respondent. The claimant was able to bring forward the start date of her new employment and she began this on 23 July 2021.

9. The claimant said she was not paid for the first two weeks of her employment with the respondent and these monies were to be carried over. She has not received them. They amount to £1153 gross. This forms the second part of her claim.

10. Finally, the claimant claims she is owed holiday pay in respect of the period 12 October 2020 to 18 July 2021. The claim is in respect of holidays accrued but unpaid on termination. She acknowledges having taken 12 days holiday during her employment and claims 9.6 days outstanding from a total entitlement of 21.6 days. On this basis she was owed £1107.69.

11. I found the claimant to be a credible witness. She was realistic in her expectations. She did not seek any payment in respect of the period between one job ending and a new job starting. She was able to give a clear calculation of the figures she said she was owed. The response from the respondent was not only been late but lacked detail. It does not explain on what basis the respondent could withhold monies beyond a general reference. The respondent is in breach of contract in failing to pay the wages owed for the two lying weeks and for accrued holiday pay for holidays not taken and in making deductions for national insurance contributions paid by the respondent .
12. The respondent has advanced no argument as to why there is entitlement to monies from the claimant .

13. My conclusion is to give judgment in the claimant's favour by way of damages for the amounts claimed for breach of contract and to dismiss the respondent's claim.

Employment Judge Farrelly

5th January 2022

RESERVED JUDGMENT AND REASONS
SENT TO THE PARTIES ON

17 January 2022

FOR THE TRIBUNAL OFFICE

NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number: **2411039/2021**

Name of case: **Mrs M Wilson** v **Staffordshire Leisure Group Limited**

The Employment Tribunals (Interest) Order 1990 provides that sums of money payable as a result of a judgment of an Employment Tribunal (excluding sums representing costs or expenses), shall carry interest where the full amount is not paid within 14 days after the day that the document containing the tribunal's written judgment is recorded as having been sent to parties. That day is known as "*the relevant decision day*". The date from which interest starts to accrue is called "*the calculation day*" and is the day immediately following the relevant decision day.

The rate of interest payable is that specified in section 17 of the Judgments Act 1838 on the relevant decision day. This is known as "the stipulated rate of interest" and the rate applicable in your case is set out below.

The following information in respect of this case is provided by the Secretary of the Tribunals in accordance with the requirements of Article 12 of the Order:-

"the relevant judgment day" is: 17 January 2022

"the calculation day" is: 18 January 2022

"the stipulated rate of interest" is: 8%

For the Employment Tribunal Office