



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr G Ramadan

**Respondent:** Royal Mail Group Ltd

**Heard at:** Watford via CVP

**On:** 14<sup>th</sup> June 2022

**Before:** Employment Judge Moxon

## Representation

Claimant: Mr Bharrat

Respondent: Ms Hall, counsel

**JUDGMENT** having been sent to the parties on 14<sup>th</sup> June 2022 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

## REASONS

These reasons are supplied at the request of the Claimant.

### Introduction

1. The Claimant has been employed by the Respondent as a postman since 11<sup>th</sup> May 2018. That employment continues.
2. By a claim form, presented on 30<sup>th</sup> July 2021, the Claimant claimed unlawful deductions from wages. The Respondent filed a response 2<sup>nd</sup> November 2021, resisting the claim.

3. In summary, the Claimant was made subject to a final written warning on 14<sup>th</sup> July 2021. The Claimant went off sick on 19<sup>th</sup> July 2021 and remained off sick at the time of the claim. He submitted a fit note, dated 22<sup>nd</sup> July 2021, which stated that he was not fit for work on account of anxiety, depression, stress and knee pain. His manager discussed the Claimant's sickness with him on 23<sup>rd</sup> July 2021 and concluded that his absence was not necessary and that he was not genuinely ill. The Respondent therefore ceased paying sick pay to the Claimant from that date.

4. Within his claim form, the Claimant sought:

*“Full backpay (with resumption of sick pay) and an agreed sum for hurt feelings”*

5. Within the response, the Respondent defended the claim. However, an occupational health report commissioned by the Respondent, dated 14<sup>th</sup> September 2021, concluded that the Claimant was “..severely anxious and depressed...” and that he “...is unfit to attend work in any capacity...”.

6. As a consequence of the conclusion within the report, the Claimant's sick pay was reinstated and he was paid for all arrears.

#### The hearing

7. The hearing was conducted remotely via CVP platform. The technology worked without difficulty and no prejudice was caused to either party.

8. At the outset of the hearing, Mr Bharatt, on behalf of the Claimant, confirmed that all arrears had now been paid. I explained to him that I did not have jurisdiction to make any award of compensation for injury to feelings. Mr Bharatt confirmed that there were no other claims being pursued. The hearing therefore concluded.

9. I gave my judgment and reasons orally to the parties on the day of the hearing.

The law

10. The claim was for unauthorised deduction of wages. The Claimant could not pursue a claim for breach of contract as he remains employed by the Respondent.

11. The claim was therefore pursuant to section 23 of the Employment Rights Act 1996.

12. Section 24, as amended, provides the Employment Tribunal's powers:

*“(1) Where a tribunal finds a complaint under section 23 well-founded, it shall make a declaration to that effect and shall order the employer—*

*(a) in the case of a complaint under section 23(1)(a), to pay to the worker the amount of any deduction made in contravention of section 13,*

*(b) in the case of a complaint under section 23(1)(b), to repay to the worker the amount of any payment received in contravention of section 15,*

*(c) in the case of a complaint under section 23(1)(c), to pay to the worker any amount recovered from him in excess of the limit mentioned in that provision, and*

*(d) in the case of a complaint under section 23(1)(d), to repay to the worker any amount received from him in excess of the limit mentioned in that provision.*

*(2) Where a tribunal makes a declaration under subsection (1), it may order the employer to pay to the worker (in addition to any amount ordered to be paid under that subsection) such amount as the tribunal considers appropriate in all the circumstances to compensate the worker for any financial loss sustained by him which is attributable to the matter complained of.”*

Conclusions

13. Mr Bharatt confirmed, during the hearing before me, that all arrears had been paid to the Claimant and that there was no other remedy being sought save for injury / hurt to feelings.
14. I have no jurisdiction to award compensation for anything other than financial loss, as stated within section 24 of the Employment Rights Act 1996.
15. Given that all financial claims had been recovered, I only had power to make a declaration that there had been an unauthorised deduction of wages. My judgment contained that declaration.
16. I made no award for injury / hurt to feelings as I did not have jurisdiction to do so.

Employment Judge Moxon

Date: 2<sup>nd</sup> July 2022

JUDGMENT SENT TO THE PARTIES ON

21/7/2022

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