EMPLOYMENT TRIBUNALS

Claimant: **Mr B Miah**
Respondent: **London Ambulance Service NHS Trust**

Heard at: **London Central Employment Tribunal via Cloud Video Platform**
On: **28 April 2022**

Before: **Employment Judge Youngs**

Representation
Claimant: **Ms N Jain (Free Representation Unit)**
Respondent: **Mr Nicholls (of Counsel)**

RESERVED JUDGMENT

1. The Respondent has made an unlawful deduction from the Claimant's wages and is ordered to pay the Claimant the gross sum of £473.93 in respect of the amount unlawfully deducted.

2. The Respondent is entitled to make appropriate deductions for tax and national insurance contributions on the above payment before it is paid to the Claimant.

REASONS

Introduction

1. The Claimant, Mr Miah, is employed by the Respondent, London Ambulance Service NHS Trust, as an Emergency Ambulance Crew. The Claimant claims that he has suffered an unlawful deduction from his wages in relation to a) pay for unsocial hours for the period 30 May 2021 to 28 August 2021 and b) a disruption payment in respect of shifts worked over Christmas 2021. The Respondent contests the claim.

2. The Claimant was represented by Ms Jain, a volunteer from the Free Representation Unit. The Claimant gave evidence on his own behalf. The Respondent was represented by Mr Nicholls of Counsel. Mrs Tanner, Senior

Resource Co-Ordinator for the Respondent, gave evidence on behalf of the Respondent. Both witnesses had prepared written witness statements, and I also had before me an agreed Bundle of Documents.

Issues

3. At the start of the hearing, I set out and agreed the issues with the parties, which are as follows. The issues to be determined are as follows:

    a. Was the Claimant entitled to receive an unsocial hours payment at a rate of 25% for the period 30 May 2021 to 28 August 2021? If so, it is agreed that the Claimant has suffered an unlawful deduction from wages of £473.93.

    b. Does the disruption payment referred to in a bulletin of 2 November 2021 apply to core shifts that are not worked as overtime? If so, it is agreed that the Claimant has suffered an unlawful deduction. If successful, in relation to quantum, is the Claimant entitled to be paid a disruption payment in relation to all three shifts claimed for, or for two shifts only (on the basis that his contract requires him to work at least one of the three shifts in any event), and how much has been deducted from the Claimant's wages?

Findings of fact

4. The Claimant has continuous NHS since 21 February 2013. He commenced employment with the Respondent on 9 January 2017 and worked as an Emergency Ambulance Crew (EAC). He is employed under a contract of employment entitled "Trust written statement of terms and conditions of employment" dated 6 January 2017 (the "Contract of Employment").

<u>Unsocial hours payments</u>

5. The Claimant's Contract of Employment was amended when he moved onto a part-time annualised hours contract with effect from 1 September 2019. The Claimant was issued with a number of contract change letters, due to various letters containing errors, with the final contract change letter being issued on 10 December 2019.

6. The 19 December 2019 letter confirms that the Claimant's contractual hours were reduced to the equivalent of 18.75 per week, but on a self-rostering basis and subject to an annualised hours arrangement. The total hours to be worked in the period 1 September 2019 to 31 August 2020 was 801.09 hours (after adjustments for annual leave, bank holidays and hours owing), and the total number of hours to be worked in the period 01 September 2020 to 31 August 2021 was 838.87 hours.

7. In relation to unsocial hours payments, the 19 December 2019 letter confirms the following:

> You will receive payment for unsocial hours in line with the shifts that you work. The Scheduling Department currently reviews the unsocial hours for self-rostering agreements every 13 weeks from the date of commencement and will inform Payroll of any changes. Please note that you will receive your current unsocial hours rate for the first 13 weeks of your new contract and therefore your unsocial hour rate will be recalculated and adjusted accordingly.

8. Other terms within the 19 December 2019 letter relevant to this claim are as follows:

> One quarter of the hours you are required to roster each year should be worked in every three month period, unless otherwise agreed. This will be reviewed on an ongoing basis.
>
> At least half of the hours worked as part of the agreement must be classified as 'unsocial'. This will be monitored by the Scheduling Department.
>
> The level and regularity of hours worked will be monitored and appropriate steps taken when the operation of annualised hours does not meet business need. It is generally expected those on annualised hours will not accrue a deficit of twice their weekly contractual hours. Failure to meet agreed hours over two consecutive months may lead to: pay being stopped (in cases of non-worked hours) or future shifts may be stopped until worked hours fall within the limits set.

9. The Claimant's Contract of Employment incorporates the NHS Terms and Conditions of Service Handbook (the "NHS Handbook").

10. Annex 5 of the NHS Handbook contains the provisions for unsocial hours payments for ambulance staff employed prior to 1 September 2018, including the Claimant. It includes the following terms:

> 3. The pay enhancement will be based on the average number of hours worked outside these times during the standard working week, and will be paid as a fixed percentage addition to basic pay in each pay period….
>
> 4. This average will be calculated over a 13-week reference period or over the period in which one cycle of the rota is completed, whichever most accurately reflects the normal pattern of working….
>
> 8. For part-time staff and other staff working other than 37.5 hours a week excluding meal breaks, the average number of hours worked outside the normal hours will be adjusted to ensure they are paid a fair percentage enhancement of salary for unsocial hours working. This will be done by calculating the number of hours which would have been worked outside normal hours, if they had worked standard full-time hours of 37.5 hours a week, with the same proportion of hours worked outside normal hours. This

number of hours is then used to determine the appropriate percentage set out in table 11.

14. Agreement should be reached locally on pay enhancements for staff on annual hours agreements who work outside normal hours. The agreement should respect the principles of this annex to ensure that the arrangements for these staff are consistent with those for other staff working outside normal hours.

11. Annex 6 of the NHS Handbook includes the following:

7. A number of staff members ask if they can work variable hours to allow them to better combine work and care responsibilities, subject to working an agreed number of hours annually.

8. In order to allow for the fact that standard hours are variable under this agreement, the employer and employee agree to estimate the average hours worked outside normal hours on the basis of the average for colleagues in the same role in the same work area, subject to a retrospective adjustment if there were evidence that the actual average hours worked outside normal hours over the year as a whole had varied significantly from this level.

12. No local agreement is in place in relation to annualised hours employees, as suggested by Annex 5. No estimation of average unsocial hours was made in respect of the Claimant, as suggested by Annex 6.

13. The Respondent's Flexible Working Policy also refers to a 13-week reference period for these purposes as follows:

5.1 Unsocial hours payments will be calculated every 13 weeks and paid in arrears. The Scheduling Department will inform payroll in order that the appropriate payment can be made. Individuals will only be paid in line with the annualised hours pattern which they work.

5.2 A nominal proportion of unsocial hours will be assigned to each reference in lieu of annualised hours' employees not being able to book annual leave on unsocial shifts. This will be calculated by estimating the average hours worked outside normal hours on the basis of the average for colleagues in the same role.

14. The unsocial hours pay enhancement is paid by the Respondent as a percentage of basic salary, subject to a maximum enhancement of 25%. The Respondent calculates unsocial hours payments based on 13 week reference periods.

15. Annex 5 contains a table ("Table 11") that sets out a banded system of pay enhancements for unsocial hours worked. It is agreed that, in accordance with Table 11, where a full-time employee (working 37.5 hours per week) works an average of more than 21 unsocial hours a week in the reference period, a pay enhancement will be paid at a rate of 25%. 21 hours is 56% of 37.5 hours.

16. The Respondent calculated that as the Claimant was employed to work 50% of the hours of a full-time employee, he would need to work an average of 10.5 unsocial hours or more in each week of the reference period to qualify for the same 25% pay enhancement.

17. The Claimant did not work his annualised hours evenly across all four quarters of the year from 1 September 2020 to 31 August 2021. No concern was raised about this by the Respondent. This uneven distribution of hours resulted in the Claimant only working 72 hours from 30 May 2021 to 28 August 2021 (which is the 13 week period that is the subject of this Claim), the balance of his annual hours requirement. Had the Claimant worked his annualised hours evenly, he would have worked approximately 209 hours in each quarter.

18. Of the 72 hours worked in the reference period from 30 May to 28 August 2021, more than 50 were unsocial hours. However, of those 72 hours worked, over 70% were unsocial hours compared to the 56% applied to a full time employee working every week in the reference period.

19. The Claimant was initially paid an unsocial hours payment at the 25% rate in respect of the 30 May to 28 August 2021 reference period. However, in reviewing the payments the Respondent calculated that the number of unsocial hours worked divided by 13 (the number of weeks in the reference period) did not give rise to a sufficient number of weekly unsocial hours for the Claimant to be paid the 25% pay enhancement based on the Respondent's method of calculation. The Respondent therefore determined that the Claimant was not entitled to be paid a 25% enhancement.

20. As a result, the Respondent concluded that the Claimant should have received the unsocial hours enhancement at the rate of 13%, not 25%, and that as a result the Claimant had received an overpayment of £473.93 (gross). The Respondent proceeded to make a series of deductions over five consecutive months starting from September 2021 in order to recover the £473.93.

21. It is agreed that over the course of the year the Claimant worked an average of 13.03 unsocial hours per week, and that had the pay enhancement been calculated by reference to a 52 week period the Claimant would have received a 25% pay enhancement, including in relation to the 30 May to 28 August 2021 reference period. However, there is no 52 week reference period provided for in any of the contractual documentation. The reference period is 13 weeks.

<u>Christmas disruption payments</u>

22. The 19 December 2019 contract amendment letter (referred to above) states that:

> You will be required to work a minimum number of shifts on bank / public holidays as follows….One of the bank holidays worked must be either Christmas Day, Boxing Day or New Year's Day (or alternatively New Year's Eve night).

23. On 2 November 2021 the Respondent released a bulletin confirming additional payments available to staff over the Christmas period ("the Bulletin"). The Bulletin included the following statements:

> We have identified some key dates where additional capacity is required to meet the seasonal increase in demand and this bulletin sets out where this additional capacity is required.
>
> In line with the Agenda for Change policy, overtime will be paid at the rates outlined in this bulletin which incorporates enhanced payments from Friday 17 December 2021 to 4 January 2022 as shown in the tables below. Disruption payments are applicable to staff covering shifts on all operational vacancies including those within NETS, CHUB, HART, TRU, APP and IRO.
>
> The December attendance payment (Table 2) also apply to patient-facing CTM and FRU core shifts.

24. Table 3 of the Bulletin is headed "Additional overtime payments". Beneath that heading is the statement:

> Applies to 12hr Core Overtime and Additional DCA Shifts, HART, NETS, IRO, APP and TRU

25. The appendix to the Bulletin includes the following statement:

> Staff who work part time on annualised hours will receive the disruption payment appropriate to the overtime shift they work.

26. I have referred further to the meaning of these provisions in the "Conclusions" section below.

27. The final column of said Table 3 details the amounts of disruption payments against the dates that may attract the disruption payment. The 25, 26 and 27 December 2021 are included in the dates where a disruption payment may be payable.

28. The Claimant booked shifts on 9, 18, 19, 21, 22, 23, 25, 26, and 27 December 2021, and originally requested to work these shifts as overtime. However, on 24 January 2022 the Claimant emailed the Respondent requesting that the above December shifts be changed from overtime shifts to core shifts. The Claimant acknowledged that the shifts had not yet been submitted on "GRS" (the Respondent's Global Rostering System). In making this change, the shifts therefore counted towards the Claimant's annualised hours requirement. As at 24 January 2022, the shifts had not been processed for payment and therefore the

Claimant submitted his shifts as core shifts and the changes were implemented the same day by the Respondent.

29. The Claimant submitted a claim for the disruption payment in relation to shifts worked on 25, 26 and 27 December 2021, believing that the disruption payment was payable to him.

30. The Respondent did not pay the disruption payment amounting to £1,050 for working on 25, 26 and 27 December 2021 because the shifts were not recorded as overtime shifts and therefore the Respondent determined that the disruption payment was not payable.

31. Pursuant to the Claimant's flexible working arrangement, the Claimant was required to work at least one bank holiday over Christmas and New Year in any event (and therefore at least one of these bank holidays was not overtime).

32. The matter was subsequently discussed between the Claimant and the Respondent but no agreement was reached as to the interpretation of the Bulletin. The Claimant sought to re-assign the 25, 26 and 27 December shifts as overtime, but this was not permitted by the Respondent, who said that shifts cannot be changed from core to overtime retrospectively.

33. The Claimant issued proceedings on 22 February 2022.

Relevant law

Unlawful deductions from wages claims

34. Section 13 of the Employment Rights Act 1996 ("ERA 1996") sets out the right not to suffer unauthorised deductions:

> (1) An employer shall not make a deduction from wages of a worker employed by him unless—
>
> (a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or
>
> (b) the worker has previously signified in writing his agreement or consent to the making of the deduction.

35. Section 23 ERA 1996 provides as follows:

> (2) (1) A worker may present a complaint to an employment tribunal
>
> (a) That his employer made a deduction from his wages in contravention of section 13.

36. The issues in this case concern the interpretation of the relevant contractual provisions.

Conclusions

37. Following the witness evidence, both Ms Jain and Mr Nicholls made oral submissions, which I also took into account in reaching my conclusions. I have set out a brief summary of the submissions below.

Unsocial hours payment

38. Mr Nicholls submitted that I needed to determine what it means to calculate unsocial hours over a 13 week period. Mr Nicholls referred the fact that the Claimant should work one quarter of his annualised hours in each quarter. He submitted that it cannot be right that the Claimant should get a 25% additional payment if he has not complied with this provision, and that the Respondent's interpretation of Annex 5 supports the requirement to work evenly across the quarters so that the Respondent can plan. Mr Nicholls further submitted that the Claimant's Contract of Employment (as amended by the 19 December 2019 letter), the Respondent's Flexible Working policy and the provisions of the NHS Handbook all support the Respondent's interpretation of how to calculate unsocial hours payments. Mr Nicholls submitted that the issue is what the Claimant is entitled to be paid contractually, not whether this results in a fair or unfair outcome for the Claimant. The Respondent put in place an adjustment to reflect the Claimant's part-time contract. He further submitted that applying a fair adjustment in this regard does not require the outcome to be comparable to full time employees. Noting that the Claimant had said in evidence that his Contract of Employment only says that he "should" work his hours evenly across four quarters, Mr Nicholls submitted that "should" indicates an obligation: it means the same as "must" for these purposes.

39. Ms Jain agreed that the case would turn on how the enhancement in respect of the 13 week period is calculated. She confirmed that the majority of facts are otherwise agreed. Ms Jain submitted that the Claimant should have received an enhancement at the 25% rate in respect of the May-August 2021 reference period, in accordance with the Flexible Working policy and the NHS Handbook. She submitted that the Respondent had incorrectly pro rated the Claimant's hours. She submitted that the Contract of Employment does not say that if the Claimant did not work a quarter of his annualised hours every quarter that this would affect his pay for unsocial hours. She submitted that paragraph 8 of Annex 5 required that the Claimant's unsocial hours should have been pro rated against the actual hours worked in the reference period. Annualised hours arrangements anticipate that the same number of hours will not be worked in any given pay period. Ms Jain also highlighted that the contractual documentation does not stipulate that the unsocial hours payment should be calculated in the way adopted by the Respondent.

40. The parties agreed that no custom and practice argument was being run on either side, and that in any event custom and practice cannot override an express contractual term.

41. Although there was mention in witness evidence, and in correspondence in the Bundle, of the potential for a 52 week reference period, in the absence of any local agreement to the contrary, it is plain that the reference period for calculating unsocial hours payments is a 13 week period. That is consistent throughout the contractual documentation applicable to the Claimant. As Mr Nicholls has highlighted, the issue is how to calculate unsocial hours in the 13 week reference period.

42. Looking first at the NHS Handbook, Annexes 5 and 6 of the NHS Handbook both envisage that local agreements will be reached in respect of how unsocial hours payments are calculated for annualised hours employees. No local agreement has been reached in this case.

43. Paragraph 8 of Annex 5 applies to part-time employees, and is relied on by the Respondent who says that it has adjusted the Claimant's hours and paid a fair percentage of salary in respect of unsocial hours. However, the last sentence of paragraph 8 qualifies how the adjustment will be made, namely by calculating the number of hours which would have been worked outside normal hours if the employee had worked standard full-time hours of 37.5 hours a week, with the same proportion of hours worked outside normal hours, and then that figure is applied to Table 11. On a plain reading of this paragraph 8, the Claimant's actual hours worked should have been considered proportionately against a full-time employee's hours, so that he should be awarded the same percentage unsocial hours payment as if he had worked full time with the same proportion of "normal" hours compared to unsocial hours in that reference period. Proportionately, a full-time employee has to work 56% of their working hours as unsocial hours in order to qualify for the unsocial hours payment at 25%. In the May – August 2021 reference period, in excess of 56% of the Claimant's actual working hours were unsocial. He worked proportionately more unsocial hours than a full time member of staff would work to achieve the unsocial hours payment at 25%.

44. Looking at the wording in the Claimant's Contract of Employment (and specifically the wording introduced by the 19 December 2019 letter), that letter simply says that the Claimant "will receive payment for unsocial hours in line with the shifts that [he] work[s]". Again, on a plain reading of this wording, unsocial hours payments will be made in line with shifts actually worked. Whilst I appreciate that the Claimant "should" work his hours evenly over four quarters, this is not a strict obligation on the Claimant and in any event, the contractual provisions in relation to unsocial

hours do not state that unsocial hours will be based on an assumption that the Claimant will have worked an average of 18.75 hours a week (or a quarter of his annual hours in the reference period), or that unsocial hours will be made in line with shifts worked calculated against shifts that should have been worked. Indeed, the reference period does not necessarily run from and to the same dates as the quarter (albeit only a few days difference in this case) as there are not exactly 52 weeks in a year or 13 weeks in each quarter. For the Claimant's unsocial hours payments to be calculated as a proportion of what the Respondent says that the Claimant should have worked, that would need to be made clear in the Contract of Employment, or in a local agreement, which it is not.

45. Finally, looking at the Flexible Working policy, pursuant to which the Claimant applied to change to an annualised hours contract, the same point arises. The policy simply says that unsocial hours will be calculated every 13 weeks, and that individuals will be paid in line with the annualised hours pattern that they work.

46. The contractual and policy documentation, whether taken separately or together, is not sufficient to infer that the Claimant's unsocial hours will be calculated as a proportion of what the Respondent says he should have worked in any given reference period, or as a proportion of one quarter of his annualised hours (13 weeks being approximately one quarter). The plain reading of the various documentation is that unsocial hours will be calculated as a proportion of hours worked and I find that this means the total hours actually worked by the employee in the reference period.

47. The NHS Handbooks envisages that for annualised hours workers, adjustments may need to be made to the calculations to ensure that the amount paid is fair. That is to be a matter of local agreement. However, no agreement has been reached as to how such adjustments should be made by the Respondent. The plain interpretation, as set out above, therefore applies.

48. Accordingly, the position in this case is that the Claimant worked proportionately sufficient unsocial hours in the reference period 30 May 2021 to 28 August 2021 to be entitled to an unsocial hours payment at a rate of 25%. It is agreed that this percentage was not applied and it is further agreed that as a result a deduction from the Claimant's wages was made in the sum of £473.93. That deduction was unlawful. That being the case, the Claimant's claim in relation to unsocial hours payments succeeds.

<u>Disruption payments</u>

49. Mr Nicholls submitted that the wording of the Bulletin was clear – the title of Table 3 (which sets out, among other things, what shifts will attract a disruption payment)

is clearly headed "Additional overtime payments". He submitted that the subsequent wording ("Applies to 12hr Core Overtime and Additional … shifts…") needs to be read against that heading. Mr Nicholls summarised that this element of the Claim comes down to whether a disruption payment is payable in respect of core and overtime hours, or just overtime hours. Mr Nicholls reminded me that my function is to assess the provisions objectively, not to base my interpretation on what the Claimant says he believed to be the correct interpretation (and of course, the same is true in respect of the Respondent's interpretation). Mr Nicholls further submitted that, in any event, the Claimant was required by his Contract of Employment to work at least one of the shifts in question, and that anything that is required as part of the Contract of Employment cannot be overtime for these purposes.

50. Ms Jain submitted that at the time he asked that the shifts in question be changed from overtime shifts, the Claimant had understood that a disruption payment was payable in respect of all 12 hour shifts worked on the days in question. Ms Jain submitted that in relation to the attendance payment (another bonus also provided for in the Bulletin), the Bulletin refers to "core and/or overtime", but that it does not say this in relation to disruption payments, which the Claimant says indicates that core shifts (on specified days) attract disruption payments. In relation to whether the requirement to work one of these shifts means that the Claimant cannot claim it as overtime, Ms Jain said that the Claimant had previously claimed overtime for bank holidays and she submitted that the Contract of Employment does not prevent this.

51. The Bulletin on the first page refers to the Respondent having identified where "additional capacity" would be required over the festive period and confirms that overtime will be paid as set out in the Bulletin. I find that "additional capacity" refers to the need for additional staff to work, which is a matter of overtime.

52. The first reference to disruption payments is when the Bulletin says that "Disruption payments are applicable to staff covering shifts on all operational vacancies…". "Operational vacancies", in my finding, means shifts that need to be covered, where there are gaps (or vacancies) in the coverage of the rota. This cannot refer to shifts that are part of an employee's standard hours, or they would not be providing "cover" in that sense. In other words, this refers to additional shifts, i.e. overtime.

53. Table 3, which sets out information relating to disruption payments, is headed "Additional overtime payments". Underneath that comes the reference to "core overtime", which is the subject of the dispute in relation to disruption payments.

54. The Claimant accepted that there was a core rota, but said that the phrase "core overtime" was not a phrase that he recognised.

55. Mrs Tanner's evidence was that the term "core overtime" refers to anyone working what is, for that employee, overtime, on a core rota shift for the ambulance service. The ambulance runs a core rota, and then additional ambulances at peak times.

56. "Core overtime" is the phrase used in the Bulletin, and as referred to below it is used discretely and in contrast to "core" and "overtime". I am satisfied on the balance of probabilities that it is generally understood in the Ambulance Service that there is a core rota and then, separately, additional ambulances required at various points. Overtime can be worked on a core shift (i.e. as part of the core rota of ambulances required in the service) in which case it is referred to as "core overtime", or as crew on an additional ambulance (over and above what is required on the core rota, to service peaks in delivery).

57. In any event, the Bulletin refers to "Core Overtime". It does not refer to "Core / Overtime shifts" or "Core or Overtime shifts". Accordingly "Core Overtime" does not mean "Core Shifts or Overtime shifts", it means "Core shifts that are worked as Overtime". This accords with the heading of Table 3, as referred to above, of "Additional overtime payments" and with the general theme of the Bulletin being ovetime. Disruption payments were therefore payable to all employees who worked overtime on specific dates (for 12hr plus shifts), whether those shifts were from the core rota or additional to the core rota.

58. The above conclusions are further supported by there being a distinction between disruption payments and attendance payments. The Bulletin contains a specific reference to the attendance payment applying to certain "core and/or overtime hours" and goes on to clarify that the "additional payment is applicable to staff working their rostered shifts, overtime shifts or a combination of both". There is no such explanation in respect of disruption payments, which, in contrast, are referred to as applying to "core overtime".

59. In any event, the last page of the Bulletin says "staff who work part time on annualised hours will receive a disruption payment appropriate to the overtime shift they work". Only overtime is referred to here.

60. For all of the above reasons I conclude, therefore, that disruption payments were only payable where the specified shifts were worked as overtime.

61. The Claimant originally sought to work on 25, 26 and 27 December as overtime. However, he subsequently contacted the Respondent and asked that these shifts (along with shifts he worked on 9, 18, 19, 21, 22, and 23 December) be recorded as core shifts for him (which meant that they counted towards his annualised hours tally). The consequence of that was that the Respondent did not pay disruption payments because the shifts were not recorded as overtime.

62. The Claimant requested that this change be made prior to the shifts being submitted on GRS. In requesting the change he noted "The above shifts have NOT been submitted on GRS" (the Claimant's emphasis), indicating that the Claimant knew the significance of whether a shift had been submitted on GRS. The Respondent acted on this request and then payment was authorised for standard hours. The Respondent determined that no disruption payments were due as the Claimant had not worked the shifts on 25, 26 or 27 December 2021 as overtime. The Respondent avers that once payment for a shift is authorised, an employee cannot change that shift from overtime to non-overtime or vice versa. There has to be a cut off at some point. The Respondent having agreed the initial change was under no obligation to reverse the change after the shifts were paid. Whilst this results in an unfortunate outcome for the Claimant, in my conclusion the Bulletin as a whole was clear and annualised hours employees were specifically referred to as having to work overtime to receive a disruption payment.

63. The Claimant elected not to have these shifts recorded as overtime. He recorded them as core and non-overtime shifts, and was paid accordingly. He was therefore not entitled to the disruption payments. It follows that there was no unlawful deduction in relation to disruption payments.

64. Having found that the Claimant is not entitled to any disruption payment, I have not gone on to consider whether such a payment would have been payable in relation to all three shifts.

Employment Judge Youngs

Date of Judgment: 24 July 2022

JUDGMENT SENT TO THE PARTIES ON

.25/07/2022

for the tribunal