



## **EMPLOYMENT TRIBUNALS (SCOTLAND)**

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**Case No: 4104483/2022**

**Hearing held by CVP on 25 October 2022**

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**Employment Judge McFatridge**

**Mr Michael Carlin**

**Claimant  
In person**

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**Panacea Fire & Security Ltd**

**Respondent  
Not present or  
represented – no ET3**

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### **JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The judgment of the Tribunal is that the respondent unlawfully withheld wages from the claimant in the sum of Three Thousand, Five Hundred and Sixteen Pounds and Four Pence (£3516.04). The respondent shall pay to the claimant the sum of Three Thousand, Five Hundred and Sixteen Pounds and Four Pence (£3516.04) in respect of this.

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### **REASONS**

1. The claimant submitted a claim to the Tribunal in which he claimed that the respondent had unlawfully withheld wages from him in respect of his pay for the final two months of his employment amounting in total to £3516.04. The respondent did not lodge a response to the claim within the statutory period albeit a representative of the respondent subsequently contacted the Tribunal to advise that the company had not received income from their contracts meaning they could not pay outstanding payments to staff and that the business would be entered into E.T. Z4 (WR)

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administration by one of their creditors as soon as viable. The respondent was advised of the date and place of the hearing and the log-in details albeit they were advised that given no ET3 response had been lodged they would only be permitted to take part in the hearing to the extent permitted by the Employment Judge. In the event, the claimant was present at the hearing and there was no appearance by or on behalf of the respondent. The claimant gave evidence on his own behalf and referred to various documents he had lodged including time sheets and copies of his pay slips for May and June 2022. On the basis of this evidence and the productions I found the following essential facts relevant to his claim to be proved.

### **Findings in fact**

2. The claimant commenced employment with the respondent on or about 1 June 2020. He was paid monthly on the basis of an hourly rate. He was able to check his pay slips and things like holiday entitlement on an online app called Employee. The claimant was paid monthly on the basis of hours worked. His wages were paid on the last day of the month.
3. Matters proceeded without incident until May 2022. He worked as normal during that month. On 31 May he and his colleagues were called in to the office by management. They were told that the company had not been paid various invoices it was due and accordingly there was no money to pay staff.
4. The claimant's pay slip for May had appeared on the Employee app in the usual way. It was lodged by the claimant. It showed that he had worked 168.25 hours at £12.50, 28.5 hours at £16.6667 and 12 hours at £12.50. The net payment due to him was £2048.56.
5. On or about 13 June the claimant was advised by the respondent in an email that payments would be made in the coming days. Despite this the claimant did not receive any money. The claimant contacted one of his former colleagues and was successful in finding another job which started on 27 June. The claimant gave notice and left the respondent's employment with effect from 24 June 2022. The claimant's pay slip for the period to 24 June was also lodged. It shows the claimant as having

worked 143.6 hours at £12.50 in the period up to 24 June. The net payment due to him was £1467.48. The claimant did not receive this payment. As at the date of the Tribunal the claimant has not received payment for either May or June and the total pay due to him amounts to £3516.04.

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### **Observations on the evidence**

6. I had no hesitation in accepting the claimant's evidence as both credible and reliable. He referred to the pay slips which he had lodged which showed the precise amount being claimed.

### **Discussion and decision**

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7. Section 13 of the Employment Rights Act 1996 provides that employees have the right not to suffer unauthorised deductions. In this case I had no hesitation in finding on the basis of the evidence that the claimant had suffered unauthorised deductions of £2048.56 from his May pay and £1467.48 from his June pay. I therefore require to make a declaration that the claimant has suffered unlawful deductions in the total sum of £3516.04. The respondent is required to pay this sum to the claimant in terms of section 24(1)(a) of the Employment Rights Act 1996.

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**Employment Judge: I McFatridge**

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**Date of Judgment: 26<sup>th</sup> October 2022**

**Date sent to parties: 27<sup>th</sup> October 2022**

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