



## EMPLOYMENT TRIBUNALS

Claimant

**Miss G Hislop**

Respondent

**St Cuthbert's House Limited**

v

## PRELIMINARY HEARING

**Heard at: Newcastle Employment Tribunal**

**Sitting at: The Civic Centre**

**On: 8 November 2022**

**Before: Employment Judge Martin**

### **Appearance:**

**For the Claimant: No attendance or representation**

**For the Respondent: No attendance or representation**

## JUDGMENT

1. The claimant's complaints of unfair dismissal and discrimination on the grounds of pregnancy/maternity and sex discrimination are hereby dismissed upon withdrawal.
2. The claimant's complaints of breach of contract (notice pay) and her claim for a redundancy payment are also hereby dismissed.
3. The claimant's complaint of breach of the Working Time Regulations (holiday pay) is well founded and the claimant is awarded the sum of £540.
4. The claimant's complaint of unlawful deduction from wages is also founded and the claimant is awarded the sum of £1,560.
5. The claimant's complaint of unlawful deduction from wages in respect of the sum of £781 is hereby dismissed.

## REASONS

1. The claimant failed to attend the hearing today. However, she had provided in advance of the hearing today, a statement of submissions together with a bundle of documents and a witness statement from Mr. D French Senior, a director of the respondent company. She had not produced any witness statement for herself.
2. The respondent's response has been struck out. The respondent's Home has apparently closed. The respondent appears to now have no representation in respect of these proceedings.
3. At the previous preliminary hearing on 6 May 2022, the claimant had indicated that she was not pursuing her complaints of unfair dismissal, discrimination on the grounds of pregnancy/maternity and/or sex discrimination. She had indicated she was content for those claims to be withdrawn. Accordingly, the Tribunal has hereby dismissed those claims.
4. The Tribunal took account of Rule 47 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013. The Tribunal concluded that, as the claimant had failed to attend the hearing today, the Tribunal could dismiss the claim or proceed with the hearing in the absence of the party. Before doing so, it had to consider any information which was available to it and make any enquiries practicable about the reasons for the parties' absence. Attempts were made of the hearing to contact the claimant, but to no avail. The Tribunal noted that some documentation had already been provided to the Tribunal in advance of the hearing today. It therefore considered all of the documentation available to it which consisted of the bundle of documents and a witness statement referred to above. The Tribunal also considered all the documentation on the Tribunal file.
5. The Tribunal noted that there was no documentation supporting the claimant's claims for notice pay or for a redundancy payment. It appears from evidence from the respondent (an email dated August 2022) that those claims are not being pursued. As there was no evidence in support of those claims, both of those claims were hereby dismissed.
6. The Tribunal noted that the claimant had provided a breakdown and details of her claim for holiday pay. She is claiming 60 hours unpaid holiday which was apparently bereavement leave. She was claiming those hours at £9.00 an hour. Her evidence in support of that claim is consistent with what she said about that claim at the Preliminary Hearing on 6 May 2022. Accordingly, she is awarded £540 in respect of her claim for holiday pay.
7. In relation to the claimant's claim for unlawful deduction from wages, it appears on the face of it that she is making two separate claims:
8. The first relates to monies which she says was deducted from her final pay slip. In that regard, she has produced a copy of her final pay slip and the wage spreadsheet from which it is noted there has been a deduction of £1,560. In her submissions to the tribunal submitted in advance of today's hearing, she says those monies related to an overpayment of £853, which she says was repaid.

She has produced evidence showing that that money was repaid and written acknowledgement confirming receipt of that overpayment from the respondent. On the face of it, it therefore appears that the sum of £1,560 was incorrectly deducted from the claimant's final salary. Accordingly, she is awarded the sum of £1,560 in respect of outstanding wages.

9. She also appears to be claiming £781 however it is unclear from the documentation provided what that claim relates to or how it has been calculated. The only evidence produced suggests that that is a claim for Universal Credit which is not something which can be pursued in this Tribunal. If there is an issue about understanding payments of Universal Credit then that is a matter for the claimant to take up with HMRC. The evidence produced in relation to that complaint is insufficient for the Tribunal to make any award. Further there is no reference in the claim form for that element of the claimant's claim for unlawful deduction from wages nor does it appear to have been discussed at the Preliminary Hearing on 6 May 2022.
10. Therefore, in the absence of the claimant providing any explanation for that sum and what it relates to and how it has been calculated, the Tribunal has determined that there is insufficient evidence to support that claim. As the claimant failed to attend the hearing today, the tribunal determined that it could dismiss that element of her claim in her absence. On the face of it, the Tribunal also considers that the claim has no merit. Therefore, it would have been minded to strike it out anyway. Accordingly, that claim for unlawful deduction from wages is hereby dismissed.

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**Employment Judge Martin**

13 November 2022