



## EMPLOYMENT TRIBUNALS

Claimant  
**Mr D Pitts**

Respondent  
**v The Devarmsmiddlehandley Ltd**

### HEARING

**Heard at: Leeds by CVP**

**On: 14 December 2022**

**Before: Employment Judge O'Neill**

**Appearance:**

**For the Claimant: In person**

**For the Respondent: No appearance**

### JUDGMENT

The claim for unauthorised deduction of wages succeeds and the claimant is awarded compensation of £1464.64

### REASONS

1. Introduction
  - 1.1 The Respondent did not attend.
  - 1.2 The Respondent was already the subject of an unless Order dated 12 December 2022 for having failed to comply with a Case Management Order.
  - 1.3 The clerk telephoned the named contact person but her call went unanswered and there was no means of leaving a message.
  - 1.4 The notice of Hearing had been sent to the email address in the ET3 where correspondence had been successfully sent in the past.
  - 1.5 The Respondent had not contacted the Tribunal to explain his absence.
  - 1.6 In the circumstances I decided to continue with the Hearing under Rule 47 in the Respondent's absence.

2. Claims

2.1 The claim is for unauthorised deduction from wages S13 ERA 1996

2.2 Failure to provide statement of terms and conditions S1 ERA 1996 and S38 Employment Act 2002.

3. Evidence

3.1 The claimant affirmed and gave verbal evidence, adopting the ET1 as his statement and answering my questions.

4. Findings

4.1 I accept the claimant's evidence that

- He was employed from 3 June 2021 to 3 June 2022 as a management accountant by the Respondent.
- His net weekly wage was £406.94 net and £528.85 gross.
- His employment came to an end when he resigned giving notice on 20 May 2020 to take effect on 3 June 2022 (the Effective Date of Termination).
- The Respondent took no steps to curtail his notice period and he did not agree a shorter notice period.
- He was entitled to be paid until 3 June 2022 and did not stop working at an earlier date.
- His final weeks pay was not paid.

4.2 I accept the claimant's evidence that

- He had had an email from the Respondent giving him his start date and salary
- Apart from those matters he had been given no document containing or referring him to in another document the terms and conditions listed in S1 ERA 1996
- The absence of a statement had made some aspects of his working life more difficult eg holidays but he had had no significant issues about his terms and conditions or problems for want of a written statement.

5. Conclusions

5.1 The respondent failed to pay wages properly payable to the claimant in the week ending 3 June 2022 and are in breach of S13 ERA 1996.

5.2 The shortfall in wages was £406.94 net pay.

5.3 The claimant was not provided with a written statement of employment particulars as required by S1 ERA 1996.

5.4 Under S38 Employment Act 2002 I increase the award of compensation by £1057.70 because the claimant was not provided with such a written statement.

5.5 I have set the figure at the lower rate (2 weeks) because the claimant has not evidenced any particular circumstances on the basis of which a higher award might be made.

6. I make an award calculated as follows

£406.94 – 1 weeks net pay

£1057.70 – 2 weeks goss pay

£1464.64 – Total compensation award

**Employment Judge O'Neill**

14 December 2022