



EMPLOYMENT TRIBUNALS

Claimant: Mr Oliver Gridley

Respondents: (1) SCL Technology Limited
(2) SCL Support Limited

Heard on: 8 December 2022 by video

Before: Employment Judge Pritchard

Representation

Claimant: In person
Respondent: No appearance

JUDGMENT

Rule 21 of the Employment Tribunal Rules of Procedure 2013

1. The Second Respondent is dismissed from these proceedings.
2. The First Respondent made unlawful deductions from the Claimant's wages.
3. The First Respondent is ordered to pay to the Claimant the sum of £6,510.72 net i.e. without any deductions.
4. The First Respondent failed to provide that Claimant with a written statement of employment particulars and the First Respondent is further ordered to pay to the Claimant the sum of £715.46

REASONS

1. By way of an ET1 presented on 17 March 2022, having complied with the requirements under the ACAS early conciliation regime, the Claimant claimed deductions from the Respondents. Neither Respondent presented an ET3 in order to resist the claim.
2. The case was listed for final hearing before Employment Judge Lang on 30 August 2022, the Claimant represented by his father. However, for reasons set out in Employment Judge Lang's order, that hearing was not effective. Employment Judge Lang instead made case management orders including the requirement for the Claimant to provide evidence of his losses and a contract of employment which might show the correct identity of his employer.

3. At the hearing today, the Claimant represented himself and was accompanied by his father. The clerk to the Tribunal managed to make contact with a Mr A Bause of the Respondents having obtained a contact telephone number from the Claimant. Despite Mr Bause telling the clerk that he would join the hearing, by 2.30 pm he had still not done so. The Tribunal proceeded to consider the Claimant's claim in the Respondents' absence under Rule 47.
4. The Claimant gave evidence on oath and referred to some of the documents he had provided in accordance with Employment Judge Lang's case management order.
5. The Claimant understood that he was employed from 22 September 2020 by the First Respondent. He resigned with effect from 18 January 2022.
6. The Claimant was not provided with a contract of employment or anything else in writing as to his terms of employment or anything to show the identity of his employer. He was paid (when he was paid) throughout by the First Respondent except for the very last part-payment of wages he received in December 2021 which was paid by the Second Respondent.
7. On the balance of probabilities, the Tribunal finds that the First Respondent was the Claimant's employer, the final part wage payment made by the Second Respondent simply because of the First Respondent's financial difficulties about which the Claimant gave evidence.
8. The First Respondent did not provide payslips and the Claimant was unable calculate his gross wage before tax and National Insurance which he understood had been deducted from his wages.
9. The spreadsheet prepared by the Claimant showed an underpayment of net wages in the sum of £5,610.72 for the months of August to December 2021. The spreadsheet did not include his unpaid wages for January 2022 and the net sum of £900.00 was unpaid. Total unpaid wages was therefore £6,510.72 net.
10. Rule 21 provides, in terms, that where no response has been presented, if the Judge is unable to make a determination of the claim on the paperwork provided, the claim must be determined at a hearing.
11. Under Section 13 of the Employment Rights Act 1996, an employer must not make a deduction from a worker's wages employed by him unless the deduction is required by statute, under a relevant provision in a worker's contract, or the worker has previously signified her written agreement or consent to the making of the deduction. A deficiency in the payment of wages properly payable is a deduction for the purposes of this section.
12. Determination of this claim can now be made and Judgment is entered accordingly as set out above.
13. Section 1 of the Employment Rights Act 1996 provides that an employer must provide an employee with a written statement of employment particulars not later than two months after the beginning of employment containing the

particulars set out in that section and as further described in sections 2 and 3. Section 4(1) provides that if there is a change in any of the matters particulars of which are required by sections 1 to 3, an employer must provide an employee with a written statement containing particulars of the change at the earliest opportunity and in any event not later than one month after the change.

14. Section 38 of the Employment Act 2002 provides that if in a case to which the proceedings relate (which includes proceedings relating to unfair dismissal) the Tribunal finds in favour of an employee and, when the proceedings were begun the employer was in breach of his duty under section 1(1) or 4(1) of the Employment Rights Act 1996, the Tribunal must, unless there are exceptional circumstances which would make an award or increase unjust or inequitable, award the employee two weeks pay (subject to the cap specified in section 227 of the Employment Rights Act 1995). If the Tribunal considers it just and equitable in all the circumstances, the Tribunal may award four weeks' pay (subject to the cap specified in section 227 of the Employment Rights Act 1996).
15. In accordance with section 38 referred to above, this claim therefore also attracts an award which shall be granted in the sum equivalent to two weeks' wages.
16. The Claimant's wages were, until the underpayments and non-payments, paid at the net rate of £1,550.18 per month. This was £357.73 net per week. Net figures are the only figures available to the Tribunal. A further award is made in the sum of £715.46.

Note

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Employment Judge Pritchard
Date: 08 December 2022