



EMPLOYMENT TRIBUNALS

Claimant: Mr J Endredi
Respondent: HR Essentials Limited
Heard at: Nottingham Employment Tribunal
On: 28 October 2022
Before: Employment Judge Phillips (sitting alone)

Representation

Claimant: Claimant in person
Respondent: Mrs Wilson, lay representative

JUDGMENT

1. The Claim for failure to provide written statements of pay is dismissed on withdrawal by the Claimant; and
2. The Claim for unpaid wages is not well founded and is dismissed.

REASONS

1. The Claimant worked as general operative, as an agency worker supplied by the Respondent to White Meadow Limited, a furniture company between 24 March 2022 and 30 May 2022.
2. The Claimant now brings a claim for unpaid wages – either as an unlawful deduction from wages claim or as a breach of contract claim. It also appears to be the case that he seeks to bring a claim for quantum meruit – that is to say the fair amount for the work which he undertook.
3. His claim has been brought in time, being issued on 4 July 2022, with Acas early conciliation taking place between 24 and 29 June this year. The Respondent submitted its ET3 defence form on 4 August 2022.

4. I stress that the Employment Tribunal can only hear cases which falls into certain categories which it is allowed to hear by virtue of statute. Unlike other jurisdictions, such as the County Court, the Employment Tribunal does not have an inherent jurisdiction to hear claims generally.

Evidence

5. Today I have heard evidence from Mr Endredi, Miss Homewood and Mr Wilson. Their evidence largely appeared credible and congruous.

The Law

6. Pursuant to sections 13 and 15 Employment Rights Act 1996, an employer may not make a deduction from the wages which are properly payable to any worker employed by the employer, or receive a payment from such a worker, unless it is required or authorised to be made by virtue of any statutory provision or any relevant provision of the worker's contract, or the worker has previously signified in writing their agreement or consent to the making of it
7. Wages are defined in section 27 Employment Rights Act 1996 and includes any fee, bonus, commission, holiday pay or other emolument referable to the workers employment, whether payable under their contract or otherwise. Wages are therefore fairly widely defined and the Employment Tribunal has a fairly wide discretion.
8. In **New Century Cleaning Co Ltd v Church [2002] IRLR 27**, the Court of Appeal set out that "wages properly payable" by an employer to a worker in terms of s.13 Employment Rights Act 1996 are sums to which the employee has some legal, though not necessarily contractual, entitlement. Although s.27 Employment Rights Act 1996 defines "wages" as "any sums payable to the worker in connection with his employment ... whether payable under his contract or otherwise", the words "or otherwise" do not extend the ambit of the sums payable beyond those to which the employee has some legal entitlement.
9. A claim for a quantum meruit payment (as much as is deserved) does not fall within the statutory concept of 'wages' in s27 Employment Rights Act 1996. This is because it falls outside the core conception of wages (of being for work done, or to be done, under a subsisting contract of employment,) does not appear to fall within any of the items listed in s27 Employment Rights Act 1996 and appears to be dissimilar to the other types of payments listed in that subsection.
10. Accordingly, a claim for a quantum meruit payment cannot be brought as a statutory claim of unlawful deductions from wages and must be brought in an ordinary court. This stems from the decision by the Employment Appeal Tribunal in **Abellio East Midlands Ltd v Thomas [2020] EAT 20**.

Findings

11. I have been referred to terms of engagement which covered the work the Claimant was undertaking for the Respondent at the third party premises. They set out the hourly rate of pay, initially of £8.91/hour and thereafter £9.50/hour when the uplift to the national living wage was introduced.

12. I have also seen copies of Temporary Workers booking schedules which cover the period of the Claimants work for the Respondent. The job role is specified as warehouse operative and the duties of the role are set out clearly – they include – Bagging, goods in, despatch, inspecting, cushion filling, cleaning and tidying of work areas and any other duties.
13. On the evidence, I find that lifting and manoeuvring furniture would fall under those general descriptions set out in the booking schedule. This is because it would be inherently necessary for warehouse operatives preparing goods for despatch at a furniture manufacturer would need to lift furniture and parts to get them ready for shipping.
14. On the question of the amount of wages, it is abundantly clear from all of the documentation that the correct hourly rates were £8.91 and £9.50/hour. This is what the claimant was paid and he readily accepts this. His claim is not that there were unpaid hours owed to him, it is that the hourly rate was not correct for the work which he undertook.
15. I am therefore duty bound to find that given the Claimant's claim relates only to wages and has received the wages which were properly payable to him that the provisions in the Employment Rights Act 1996 covering unlawful deduction from wages are not applicable and so his claim cannot succeed under those provisions.
16. Turning next to dealing with the claim as a breach of contract claim, given I have found that the Claimant agreed to the hourly rates in his terms of employment and was aware of the nature of the role and his hourly rate, the Respondent has not breached his contract. It has paid him precisely the amounts due under his contract.
17. I have already set out when expressing the law that the Employment Tribunal can only deal with certain types of claims where statute permits. The Employment Tribunal does not have an inherent jurisdiction like the County Court. The Employment Tribunal does not have the jurisdiction to consider claims for quantum meruit. These must be pursued, should the Claimant so desire, in the County Court. I make no criticism of the Claimant for bringing his claim - his beliefs are validly held and he was entitled to bring his claim for decision today.
18. Given these findings however, I am duty bound to dismiss his claim for unlawful deduction from wages as there is no basis upon which such a claim could succeed in the Tribunal.

Employment Judge Phillips

Date: 28 October 2022

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