



EMPLOYMENT TRIBUNALS

Claimant: Lillian Turner
Respondent: Teen Support Services Ltd
Heard at: East London Hearing Centre
On: 25 January 2023
Before: Employment Judge Mack

Representation

Claimant: In person
Respondent: Mr Farrukh Husain (solicitor)

JUDGMENT

1. The Claimant's claim for unfair dismissal fails.
2. The respondent made unauthorised deductions from wages by failing to pay the claimant the sleep-in element of the C's annual leave pay from 20 March 2020 to 18 October 2021 and is ordered to pay the claimant the sum of £937.50, being the total gross sum deducted.
3. The respondent made unauthorised deductions from wages by failing to pay the claimant annual leave from 20 March 2020 to 18 October 2021 and is ordered to pay to the claimant the sum of £766.62, being the total gross sum deducted

REASONS

1. This matter came before the Tribunal to determine the Claimant's claim for unlawful dismissal and unauthorised deduction from wages.
2. Decisions as to liability were announced during the hearing and reasons given. As reasons for the judgement as to liability were given orally at the hearing and written reasons were not requested by either party at the hearing, written reasons will not be provided unless a written request is

presented by either party within 14 days of the sending of this written record of the decision.

3. Pursuant to a Case Management Order dated 27 January 2023, both parties provided representations and information that they wished the Tribunal to consider when it determined remedy for the claim for unauthorised deduction for payments in respect of annual leave.
4. The Tribunal decides the following with respect to remedy:
 - A. The Tribunal cannot consider complaints for unauthorised deductions of wages where the deduction was made more than two years prior to the presentation of the complaint;
 - B. The date of presentation of the complaint was 20 March 2022 and the relevant period for consideration of unauthorised deductions is therefore 20 March 2020 to 20 March 2022;
 - C. The claimant did not work for the respondent after 18 October 2021 and prior to the effective date of termination (and date of presentation of the complaint) on 20 March 2022;
 - D. During the relevant period sleep-in entitlement averaged 1.25 nights per month and was paid at a rate of £37.50 per night. The claimant was only entitled to sleep-in payments for the period that she actually worked for the respondent. The entitlement from 20 March 2020 to 20 March 2022 is 20 nights (based on working from March 2020 to October 2021); the total amount for sleep-in entitlement is therefore $£37.50 \times 20 \text{ nights} = £937.50$;
 - E. The respondent's holiday year ran from April to March each year; holiday entitlement was 5.6 working weeks per holiday year and holiday entitlement accrued concurrently for each hour worked (per the claimant's contract);
 - F. Therefore, for the period 1 April 2021 to 18 October 2021, the claimant accrued 3.1 weeks (15.5 days) of holiday;
 - G. The claimant carried over 341 hours from the holiday year 2020/21 to 2021/22;
 - H. The claimant took 384 hours of holiday during the holiday year 2021/22. Therefore, the claimant used all holiday carried over to 2021/22 and took an additional 41 hours of holiday. 41 hours of holiday, at 7.5 hours per day, is 5.5 days;
 - I. Having used 5.5 days of her 2021/22 holiday allowance means the claimant had 10 days (or two weeks) of her 2021/22 accrued leave allowance remaining (15.5 days - 5.5 days);
 - J. The claimant did not work a basic week of fixed or regular hours and therefore her week's holiday pay was based on an average of her basic pay during the twelve weeks worked in the period leading to

commencement of holiday (per her contract with the respondent);

- K. The claimant's wage slips for August, September and October 2021 (13 weeks) show total pay of £4,983 and therefore a weekly average amount of £383.31;
- L. Therefore the total outstanding amount due to the claimant is £383.31 x 2 = £766.62.

Employment Judge Mack

Dated: 10 March 2023