



EMPLOYMENT TRIBUNALS

Claimant: Mr Elliott Fox

Respondent: Buttergrove Housing Ltd

Heard at: Leeds (By CVP Link) **On:** 05 May 2023
Before: Employment Judge R S Drake
Representation:

Claimant: In Person (Assisted by his Mother Mrs V Fox)
Respondent: No Response filed and no attendance/appearance today

JUDGMENT

1. The Claimant has established that he suffered an unlawful withholding of 13 day's pay contrary to Section 13 of the Employment Rights Act 1996 ("ERA") for the period 28 November 2022 to 14 December 2022 amounting to 109 hours worked and that, as his hourly net rate was or should have been £6.83, he is thus entitled to be paid and the Respondents shall pay to him the sum of **£744.47**. His claim in this respect succeeds.

REASONS

2. The Claimant did not attend in person but was assisted by his Mother Mrs Virginia Fox who confirmed her evidence on Affirmation. However, the Respondent had not responded to the claim and nor have they made any appearances before me today. I heard evidence and argument via the Mother.

Findings of Fact

3. I was able to accept the Claimant's unchallenged evidence as it was persuasive and cogent. Therefore I found that he had worked a total of 13 days between 28 November 2022 and 14 December 2022 whereafter because he was not being paid, he in effect resigned summarily.
4. I found that he was not paid anything whatsoever for eleven (11) days when he worked 9 hours per day, one (1) day when he worked 2 hours

and one (1) 1 day when he worked 8 hours. The total hours worked but for which he was not paid totals 109.

5. I found that though there was little evidence as to agreement of hourly rate, there was sufficient to find that the Claimant is entitled to paid at apprentice rate and thus at £6.83 per hour.

The Law and its Application

- 7 The Claimant's withheld pay complaint is framed under Section 13 of the Employment Rights Act 1996 ("ERA") which provides as follows: -

"(1) An employer shall not make a deduction from wages of a "worker" employed by him unless –

(a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the workers contract, or –

(b) the worker has previously signified in writing her agreement or consent to the making of the deduction ..."

8. I award the Claimant Judgment for unpaid wages for the period of 28 November 2022 to 14 December 2022 in the sum of £744.47 to which extent his claim in this respect succeeds

Employment Judge R S Drake

Signed 05 May 2023

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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