



EMPLOYMENT TRIBUNALS

Claimant:
Mr M Fowler

v

Respondent:

Witherness Ltd t/a The Blue Boar

Heard at: Reading (by CVP) **On:** 5 April 2023

Before: Employment Judge Anstis (sitting alone)

Appearances:

For the Claimant: In person

For the Respondent: No attendance or representation

JUDGMENT (RULE 21)

The respondent has made an unlawful deduction from the claimant's wages and must pay £6.89 to him.

REASONS

1. Directly after the end of this hearing, the claimant wrote to the tribunal saying:
"In relation to this hearing I would ask why I couldn't be paid compensation in the fact the underpayment breached my contract terms to pay me correctly, or a claim under detriment that I suffered the detriment to him reporting wrong. This employer has caused great suffering and stress to myself and family and has gotten away with it.
I am utterly disgusted why the compensation for one months money couldn't be awarded under these things."
2. I have taken this to be a request for written reasons for my decision. These are those reasons.
3. The claim lodged by Mr Fowler raises a number of points, but the only one that seems to be within the jurisdiction of the tribunal is that he was underpaid by £6.89. No response has been received from the respondent and in the absence of any response I accept that this £6.89 is due to him.
4. As the claim and subsequent statement from Mr Fowler make clear, this is not the main issue for him. The main problem is that (according to him, and I have no reason to doubt this) his employer misreported the amount he had been paid on the HMRC real-time reporting system. This in turn restricted his ability to claim universal credit. The respondent reported that the claimant had been

paid more than he actually had been. While this universal credit claim has at least partially been resolved by the time of the hearing, Mr Fowler is still out of pocket. He mentioned at least £180 as being the figure he was still owed by universal credit, or that he would have been paid by universal credit if his employer had properly reported his earnings.

5. Beyond that, the claimant said that he had been told by ACAS that “*I can apply for a month’s wages in the claim ... for the underpayment and to award compensation for the unfair suffering of having not enough money to live on ...*”. He also made points about wanting the respondent not to do this to other people.
6. The tribunal can award compensation for unlawful deductions from wages, or breach of contract. However, it has always been clear that the underpayment in question is £6.89. While I understand the misreporting to HMRC has caused financial loss to the claimant I do not see that the employment tribunal has any jurisdiction to correct real-time tax filings nor to intervene when incorrect filings are made. I told the claimant that s24(2) of the Employment Rights Act 1996 permitted an additional award “*to compensate the worker for any financial loss ... which is attributable to the [deduction from wages]*” – but in this case the deduction from wages is £6.89 and it was not this deduction that caused the losses the claimant complains of. An element of the claim for additional compensation relates to the stress and trouble that he has been put to, but that is not properly awardable under s24(2) and is not attributable to the underpayment of £6.89 in any event.
7. As regards the question of payment of a month’s wages in compensation, I asked the claimant if ACAS had said what the basis for that was. He had not been given any particular basis for that by ACAS, and I am not aware of any circumstances in which a month’s pay could be awarded as compensation for this underpayment.

Employment Judge Anstis
5 April 2023

Sent to the parties on: 29.4.2023

GDJ
For the Tribunal Office

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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All 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.