



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4101050/2023

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Held in Glasgow in chambers on 18 May 2023

Employment Judge D Hoey

Mr G Ross

Third Claimant

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JH Transport Limited

Respondent

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JUDGMENT

Rule 21 of the Employment Tribunal Rules of Procedure 2013

20 The judgment of the Employment Tribunal is that the third claimant`s complaint of a failure of the respondent to pay wages to the third claimant which were due (in terms of section 13 of the Employment Rights Act 1996) succeeds and it is declared that the respondent made an unlawful deduction from wages due to the third claimant and the respondent shall pay to the third claimant the gross sum of **ONE**
25 **THOUSAND FIVE HUNDRED AND NINETY SEVEN POUNDS AND TWENTY PENCE** (£1,597.20) less such deductions required by law.

REASONS

30 1. The third claimant had raised a claim for payment of sums due to him by the respondent. The respondent had not defended the claims. While there was a proposal to strike the respondent from the companies house register that process had been paused. There was no suggestion of any ongoing insolvency proceedings.

2. A case management preliminary hearing had been fixed to progress the claims. The respondent chose not to attend or be represented at that hearing and the claims proceeded as undefended.
3. Following the case management preliminary hearing the Tribunal issued a Note to the third claimant and respondent setting out in clear terms what sums the third claimant sought and why. The Note was served on the respondent to allow any comment, which failing it was possible that a judgment may be issued without the need for a hearing in the absence of any defence to the claims. No response was received from the respondent to that Note.
4. In the absence of a response to that note it is possible to issue a judgment.

Facts

5. From the material before the Tribunal it is possible to make the following findings.
6. The respondent ceased to pay wages to the claimant and ceased all contact. The respondent failed to pay the third claimant for work that had been done.
7. The third claimant had not been paid for 12 shifts he had worked. The third claimant was entitled to £120 per shift plus £26.20 per shift for expenses which amounts to £157.20 per shift.

Law

Unlawful deductions

8. In terms of section 13 of the Employment Rights Act 1996, it is unlawful to pay to an employee, by way of wages, a sum less than that which is properly payable in terms of the contract of employment. The Tribunal is able to make a declaration as to what the unlawful deduction was and order the respondent to pay to the claimant said deduction.

Decision and discussion

9. The third claimant is due to be paid for 12 shifts at £120 per shift (£1,440) plus 6 x £26.20 expenses (£157.20).
10. There was no dispute such sums were due to the third claimant and judgment is accordingly issued.

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10 **Employment Judge: D Hoey**
Date of Judgment: 18 May 2023
Entered in register: 18 May 2023
and copied to parties