



# EMPLOYMENT TRIBUNALS

## BETWEEN

**Claimant**

Mr A McKay

**Respondent**

AND Oven Support South West Limited

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

**HELD REMOTELY**  
**(By video – VHS)**

**ON**

**23 June 2023**

**EMPLOYMENT JUDGE** N J Roper

### **Representation**

**For the Claimant:** In person

**For the Respondent:** Mr D Reynolds, Director

**Tried to attend, but VHS system defeated all attempts**

### **JUDGMENT**

**The judgment of the tribunal is that:**

- 1. The correct name of the respondent is Oven Support South West Limited and the record is amended accordingly; and**
- 2. The claimant succeeds in his claim for unlawful deduction from wages and the respondent is ordered to pay the claimant the gross sum of £3,363.50.**

### **RESERVED REASONS**

1. In this case the claimant Mr Andrew McKay brings monetary claims for unlawful deduction from wages and consequential loss against his former employer. The respondent denies the claims.
2. This has been a remote hearing which has been consented to by the parties. The form of remote hearing was by video (VHS). A face-to-face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing. The documents that I was referred to are in a bundle of 40 pages, the contents of which I have recorded. The order made is described at the end of these reasons.
3. I have heard from the claimant. The respondent tried to take part today by dialling in and initially joined by video, but without any sound. He was then disconnected, and despite

- further attempts was a unable to reconnect to the video hearing. I was able to discuss the claimant's claim with the claimant in detail, but without hearing from the respondent, and with the respondent unable to question the claimant on his claim. At the end of this process as we tried to rejoin the respondent, I was then disconnected from the VHS video hearing.
4. I have made a judgment in this matter based on the papers before me, the parties' pleadings, and the comments of the claimant. If respondent objects to this judgment and wishes to seek reconsideration, then a further explanation follows below.
  5. I found the following facts proven on the balance of probabilities after considering the whole of the evidence, both oral and documentary, and after listening to any factual and legal submissions made by and on behalf of the respective parties.
  6. The Facts:
  7. The respondent operates a business which provides services to service clean and repair kitchen ovens, and the claimant was employed as an oven cleaner. The respondent appears to carry out business through a plethora of linked limited companies. The claimant was initially unsure exactly which limited company employed him, and the first matter to resolve therefore is the name of the correct respondent.
  8. The claimant issued these proceedings on 18 March 2023 naming Oven Support Limited as the respondent. This was supported by an ACAS Early Conciliation Certificate giving that company's address as the Business Centre, Edward Street, Redditch. That respondent was clearly aware of these proceedings because it entered a response on 26 April 2023 merely stating: "Claimant Mr A Mackay has never worked for Oven Support Ltd so we are not due to pay anything to this individual.". In reply the claimant sent to the tribunal a copy of the letter which originally offered him employment. This was in the name of Oven Support South Limited. That letter gave an address of Middleton on Sea, Bognor Regis but did not appear to comply with company regulations in the sense that there was reference at the bottom of that letter to a different limited company (namely Covertxt UK Ltd) which appears to be a linked company because it shares the same Registered Office address in Redditch which appeared in the original Early Conciliation Certificate.
  9. On 5 June 2023 the Tribunal office wrote to the claimant to confirm that Oven Support South Limited had been dissolved as a limited company on 23 April 2023 that his claim could not proceed against that company because it no longer existed. The claimant responded to the effect that his employment had already transferred to Oven Support South West Limited (which is a linked limited company sharing the same Registered Office in Redditch). The claimant give evidence of a payslip to him in the name of Oven Support South West Limited. The respondent was asked by the tribunal office to give comments as to whether this was the correct employer, but the respondent did not reply.
  10. The claimant has prepared a bundle of documents for this hearing and asserts that the respondent failed to engage in the process of seeking to prepare relevant documents and/or witness statements, and it has had no input in the preparation for this hearing. The claimant has included documents namely further payslips, and a letter of confirmation from HMRC, clearly indicating that he was paid for a number of months by Oven Support South West Limited. For these reasons I find that the correct respondent to these proceedings is Oven Support South West Ltd, and the record is amended accordingly. To the extent that it is necessary to record it, in my judgment the slightly incorrect name on the original Early Conciliation Certificate from ACAS is a minor matter only, because the correct registered office was named, and the respondent has clearly been aware of these proceedings throughout, and it did try to join the hearing today.
  11. The respondent failed to pay the claimant's wages for January 2023 in the sum of £1,885.00, and for February 2023 in the sum of £718.50. These deductions were not authorised by the claimant. He suffered hardship as a result and had to take out a loan from his girlfriend in the sum of £760.00 which he has been unable to repay. He also says he was late in paying rent in the sum of £1,500.00, and he claims lost universal credit in the sum of £1,334.64 because he was unable to claim universal credit at a time when did not know that the respondent was going to fail to pay him.
  12. I explained to the claimant that it seems that he was always going to have to pay his rent of £1,500 and so it cannot be said to be a loss which is attributable to any failure to pay his

- wages. Similarly, I pointed out that the claimant was unable to claim universal credit for the time when he was employed and was due his wages, and that if an award is made for these wages then it is not appropriate to seek a payment of universal credit. The claimant agreed and no longer pursues these two heads of consequential loss.
13. Having established the above facts, I now apply the law.
  14. The claimant claims in respect of deductions from wages which he alleges were not authorised and were therefore unlawful deductions from his wages contrary to section 13 of the Employment Rights Act 1996.
  15. Under section 24(2) of the Act, where a Tribunal makes a declaration that there has been an unlawful deduction from wages it may order the employer to pay such amount as a Tribunal considers appropriate in all the circumstances to compensate the worker for any financial loss sustained by him which is attributable to the matter complained of.
  16. The respondent failed to pay the claimant's wages for January and February 2023, which was an unlawful deduction, amounting to £2,603.50. In addition, the claimant has had to take out a loan of £760.00 which he is unable to repay, and this loss is attributable directly to the unlawful deduction from his wages.
  17. Accordingly, the claimant succeeds in his claim and the respondent is ordered to pay the claimant the sum of £3,363.50.
  18. This judgment was made without the respondent being able to attend and make representations in reply to the claimant's evidence today. If the respondent wishes to seek a reconsideration of this judgment then an application must be made within 14 days from the date it is sent to the parties and it must include the following information: (i) a written application for reconsideration, copied to the claimant, and stating why it is in the interests of justice for the judgment to be varied or revoked; and (ii) enclosing a written copy of the respondent's proposed defence to the claim on the standard form. The claimant should then reply to this application with a copy to the respondent.

Employment Judge N J Roper  
Dated 23 June 2023

Judgment sent to Parties: 07 July 2023

FOR THE TRIBUNAL OFFICE