



EMPLOYMENT TRIBUNALS

Claimant: Mr C Lee

Respondent: Oaktree Childcare Limited

HELD AT: Manchester (by CVP)

ON: 21 July 2023

BEFORE: Employment Judge Johnson

REPRESENTATION:

Claimant: unrepresented

Respondent: Mr Matthew Bond (Company Director)

JUDGMENT

The judgment of the Tribunal is that:

- (1) The respondent did present its response to the Tribunal at 15:26 on 25 May 2023 and they therefore presented the response in time in accordance with Rule 16(1) and is entitled to defend the claim at the final hearing.
- (2) The claimant's complaint of unlawful deduction from wages contrary to section 13 Employment Rights Act is well founded.
- (3) The claimant suffered an unlawful deduction of wages on 31 March 2023, when his payslip confirmed that the £1,200 balance of his £1,500 employee loan, (which was agreed with the respondent as part of a signed agreement on 2 February 2023) when only a single agreed instalment of £300 should be deducted in accordance with the agreed monthly repayments.
- (4) There was therefore an *over deduction* of £900 by the respondent on 31 March 2023 and this was the amount of the unlawful deduction contrary to section 13 Employment Rights Act 1996.
- (5) However, the claimant immediately gave his notice of resignation with immediate effect at 08:10 on 31 March 2023. He resigned without working his contractual notice and the employee loan agreement signed by the claimant

provided that upon termination of his employment, he would be required to repay the balance of the loan with immediate effect.

- (6) As a consequence, the £900 became repayable and the claimant therefore suffered no ongoing loss, even though there had been an unlawful deduction from wages on 31 March 2023.
- (7) While in principle, it could be argued that the £900 deduction should have been paid to the claimant and the respondent could then recover this figure from him as a civil debt, this would not be in the interests of justice. It would be contrary to the overriding objective under Rule 2 of the Tribunal's Rules of Procedure as it would put the parties to unnecessary and disproportionate additional expense for the reasons given above.

Employment Judge Johnson

Date 21 July 2023

JUDGMENT SENT TO THE PARTIES ON
28 July 2023

FOR THE TRIBUNAL OFFI