



EMPLOYMENT TRIBUNALS

Claimant: Ms J Williams

Respondents: (1) The Compound Newham Street Gym
(2) Mr Raheel Butt

Heard at: East London Hearing Centre (by CVP)

On: 17 July 2023

Before: Employment Judge J Jones

Representation

Claimant: In person
Respondents: No appearance

JUDGMENT

1. The Claimant was a worker for both Respondents.
2. The Respondents have made an unauthorised deduction from the Claimant's wages.
3. The Respondents are ordered to pay the Claimant the total sum of £630 wages made up of the following:

August 2021 - 4 days outstanding at the rate of £10 per hour x 6 hours =	£240
13 July 2022 – 6 hours x £10per hour =	£60
14 July 2022 – 7 hours x £10ph =	£70
15 July 2022 – 8 hours x £10ph =	£80
16 July 2022 – 6 hours x £10ph =	£60
18 July 2022 – 7 hours x £10ph =	£70
19 July 2022 – 5 hours x £10ph =	<u>£50</u>
Total	= £630

The Respondents is ordered to pay the Claimant £630.

REASONS

1. This hearing was to determine the Claimant's complaint of unlawful deduction of wages by her employers. At the preliminary hearing on 17 April 2023, before EJ O'Rourke, Mr Butt asked to be made a Respondent as he contended that whatever work the Claimant had been asked to do was at his behest and not for the gym. The Notice of Hearing for today's liability and remedy hearing was sent to the parties by email on 25 April 2023. The Respondent received this as on 26 June 2023, Mr Butt wrote to the Tribunal to ask for this hearing to be postponed because he was not ready and had '*technical difficulties*' with serving his evidence to the Claimant and the Tribunal. On 10 July, AREJ Burgher refused the application for postponement and instructed the Respondent to ensure that they were ready for the hearing today.
2. The Respondents did not attend today's hearing. The clerk telephoned Mr Butt's telephone number and no one answered the phone. The clerk left a message but no one from the Respondents responded or attended the hearing. I am persuaded that the Respondents were aware that the hearing was going ahead today and as the Claimant attended, it was appropriate to continue with the hearing.
3. The Tribunal considered the documents on file, including the Response and the Claimant's sworn evidence, in coming to its judgment in this matter.
4. From the evidence, the Tribunal came to the following conclusions: -

Findings of Fact

5. The Claimant began working for the Respondents in July 2021.
6. While using the gym, the Claimant asked Mr Butt whether there was a possibility of working there. He said that there was. They arranged an interview and at the end of the interview he offered her employment at the gym. Her job was to work around the gym, showing prospective users the gym and helping at reception. She also worked for Mr Butt on legislative work related to young people and knife crime, which assisted him with some youth work he was engaged in with MPs.
7. The arrangement with Mr Butt was that the Claimant would be paid in one sum for the legislative work that she did for Mr Butt and for her work at the gym, all at a total rate of £10 per hour. She was to be paid weekly.
8. The Claimant was not always paid weekly. On Friday 16 July 2021, she sent him her bank details so that he could pay her. Mr Butt would frequently pay her late and would offer her more money as compensation for late payments. The Tribunal had evidence in the form of receipts from the Barclays Bank showing that the Claimant had been paid three separate sums of £700, on Friday 16 July; £650, on Friday 6 August; and £1,150 on 31 August. These were all dates in 2021. The details of each payment, as described by the Respondents when the payment was made; was '*Wages FT*'. The first payment on 16 July 2021 was described as '*WAGES PLUS BONUS FT*'. The Claimant's case is that Mr Butt owes her £240 as unpaid wages for the summer period of 2021, which represents 4 days of work from 31 August which was not paid. She continued to ask for this to be paid and was

reassured by Mr Butt that he would pay her the outstanding amount once she started working again in the summer of 2022.

9. There were copies of text messages for summer 2022, which showed that she began working for the Respondents again in July. She started again on 13 July 2022. The evidence was that the Claimant often opened up the gym in the morning, as the message from her to Mr Butt on the morning of 16 July shows. She would often deal with people coming to the gym to work out, by taking payment from them and generally assisting them.

10. On 16 July 2022, she texted Mr Butt to confirm that she had opened up and that the card reader had arrived so that the Respondent would now be able to take payment from customers via a card payment system. The gym was open from 7am to 11pm. Mr Butt asked her to open up from around 9am as although it was open at 7am, no one attended to use it until around 9am. The Claimant would usually stay until 3pm. In 2022, the Claimant worked at the gym reception and did the PowerPoint presentations referred to below.

11. When the Claimant asked about her pay Mr Butt told her that she should provide him with an invoice as it would make it easier to pay her. The Claimant prepared an invoice, as requested. On 19 July she confirmed as follows: *'Hey Raheel, I started working on the website, one person signed up and used the gym, I'm planning to leave the gym soon, Zak is only staying for an hour should I tell him to lock up or will you be here? I also created an invoice which I will send you soon'*. The Tribunal finds that the invoice is the document at page 5 of the Claimant's bundle of documents for today, which totals £630.00. There was no text back from Mr Butt challenging the amounts in the invoice or disputing that any money was owed to her from the summer of 2021.

12. Mr Butt confirmed that he had received the invoice and then asked the Claimant to send him what she had done so far for him on the knife crime issue as he was expecting to speak with an MP on the telephone that day. The Claimant replied with attachments, one being a PowerPoint presentation entitled *'Online Harms'* bill and another document called *'Online Harms'*. Mr Butt was pleased with the work that had been done as he described it as *'Amazing'*.

13. Mr Butt took no issue with the Claimant in the text messages and did not say that the Claimant should not be at the gym or that she should not be working. At the time, the Claimant was a university student, which was why she only worked for the Respondent between June and August 2021 and July to August 2022.

14. On Friday 22 July, when he received the invoice, Mr Butt assured the Claimant that he would pay her. He told her that he would talk to the accountant and pay her the following Monday, 25 July 2022. Mr Butt changed his mind and refused to pay the Claimant. Instead, she felt insulted as Mr Butt said many things in what she described as a 'rant', including that everyone he knows is an opportunist and wants to take money from him. The Claimant felt that this was directed at her and was upset as she was simply asking to be paid what she had worked for and was owed to her. She decided that she could no longer work for the Respondents and on 25 July, informed Mr Butt of her decision. It was at this point that Mr Butt offered the Claimant an employment contract. The Claimant had been asking for a written contract since she started at the gym, but this had always been refused. Mr Butt would usually tell

her that he was too busy or that he could not do so because of being a dyslexic person. The Claimant declined the offer of a written contract. She asked Mr Butt if he would pay her the outstanding wages and he declined to comment.

15. The Claimant confided in her brother who wanted to know why she was upset. She told him about what had happened at work and why she was not going to go back there. Her brother went to the gym and spoke to Mr Butt. The Claimant did not hear their conversation, but she was told that they had a conversation about her wages, and it is denied that any threats were made. Mr Butt claimed that the Respondent was going through financial difficulty and that was why she had not been paid. They agreed that Mr Butt would pay her for one week's wages by the end of the week as part payment of the outstanding wages. This payment was never made.

16. In its Response to the claim, completed by Ms Ausrine Peseckaite, on behalf of the Respondents, it was said that the Claimant was not contracted and that she attended the gym as a volunteer. However, a volunteer would not be paid the sums that the Claimant was paid in 2021. Mr Butt would not have accepted the invoice from a volunteer. The Claimant only met Ms Peseckaite on two occasions. They did not work together, and the Claimant reported to Mr Butt only. The Respondents did not attend today's hearing to offer any evidence in support of their case.

17. The Respondents wrote to the Tribunal on 26 June to ask for today's hearing to be postponed, due to what Mr Butt described as 'technical difficulties' with serving his evidence to the Claimant and the court. He did not explain what those technical difficulties were. The Tribunal replied on 10 July, on AREJ Burgher's instructions to refuse the application for postponement. Both parties were reminded that the existing case management orders must be completed to ensure that the claim was determined today. At the preliminary hearing on 17 April, EJ O'Rourke made some case management orders to ensure that both parties had an opportunity to put their evidence before the court and to the other side, well before the hearing. The Claimant submitted her witness statement and supporting documents to the Tribunal and the Respondents, in time. Nothing further was received from the Respondent after the ET3 and Response.

18. After reading the Claim, Response, the Claimant's witness statement and giving due consideration of all the documents; the Tribunal finds in addition to working in the gym for many hours; the Claimant worked on legislation regarding knife crime and young people, and she provided her work to the Respondents for Mr Butt's use. The Response says nothing in relation to the invoice or payments owed to the Claimant.

19. It is likely that the Claimant did refuse the offer of a written contract as this was offered to her on 25 July, after Mr Butt had accused her of wanting money from him when she was simply asking about wages due to her. The Respondents referred to two contracts in their response. However, there were no copy documents provided by the Respondent, either with the Response or in compliance with the case management orders, which referred to copy documents. As already stated, it is likely that the Claimant was offered one contract on 25 July.

Law

20. Section 13 of the Employment Rights Act 1996 states that an employer Charlotte make a deduction from wages other worker employed by him unless (a) it

actually is required or authorised to be made by virtue of a statutory provision of the worker's contract, or (b) the worker has previously signified in writing his agreement or contract to the making of the deduction. Section 23(1)(1) and (2) states that the worker must present a complaint to the tribunal about a deduction by the employer, within three months of the date of payment of the wages from which the deduction was made. Where complaint is brought in respect of a series of deductions, the reference to the deduction or payment in subsection (2) is to the last deduction or payments in the series.

21. Section 24 states that where the Tribunal finds a complaint under section 23 to be well founded, it shall make a declaration to that effect and shall order the employer to pay the worker the amount of any deduction made in contravention of section 13.

Decision

22. The Tribunal's decision is that the Claimant was working for the Respondent company, The Compound Newham's Street Gym in the periods July – September 2021 and July 2022. In addition, it is our decision that she also did some work for Mr Butt in a personal capacity, namely, writing PowerPoint presentations that address and support the Respondent's efforts to set up a programme addressing knife crime among young people, in conjunction with at least one MP.

23. Unfortunately, the Claimant has not been paid in accordance with the agreement that she had with Butt of both Respondents. They agreed £10per hour. There were 4 days outstanding from 31 August 2021. The Claimant did not bring a claim within 3 months of 3 September 2021. However, she included that amount in the invoice to the Respondents, which Mr Butt accepted and agreed to pay. It is likely that when they spoke on Friday 22 July, Mr Butt accepted that all of the money on the invoice was due to the Claimant.

24. It is therefore this Tribunal's judgment that the Claimant is owed a total of £630 which was detailed in the invoice sent to the Mr Butt, who accepted it on behalf of himself and The Compound – Newham's Street Gym, on 22 July 2022. Mr Butt refused to pay the Claimant any money.

Judgment

25. The Claimant is owed the following:

4 days' pay from 31 August 2021 x 6 hours per day	=	£240.00
13 July 2022, 6 hours x £10per hour	=	£60.00
14 July 2022, 7 hours x £10per hour	=	£70.00
15 July 2022, 8 hours x £10per hour	=	£80.00
16 July 2022, 6 hours x £10per hour	=	£60.00
18 July 2022, 7 hours x £10per hour	=	£70.00
19 July 2022, 5 hours x £10per hour	=	<u>£50.00</u>

The Claimant is owed a total of £630.00.

26. The Respondent is ordered to pay the total sum of £630.00 to the Claimant forthwith.

Employment Judge J Jones
Date: 17 July 2023