



# EMPLOYMENT TRIBUNALS

**BETWEEN**

**Claimant**

Miss Sarah Ball

AND

**Respondent**

Mr Scott Belsom trading as SJS Security

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

**HELD REMOTELY**

**By Video (CVP)**

**ON**

4 August 2023

**EMPLOYMENT JUDGE** N J Roper

### Representation

**For the Claimant:** In person

**For the Respondent:** Did Not Attend

### JUDGMENT

The judgment of the tribunal is that:

1. SJ Security Solutions Sussex Limited does not exist as a limited company and it is dismissed as a respondent to these proceedings. The correct respondent to these proceedings is Mr Scott Belsom trading as SJS Security, and the record is amended accordingly; and

1. The claimant succeeds in her claim for unlawful deduction from wages and the respondent is ordered to pay the claimant the gross sum of £1,277.40; and

2. This tribunal does not have jurisdiction to hear the employer's contract claim as presented by the respondent and it is therefore dismissed.

### RESERVED REASONS

1. In this case the claimant Miss Sarah Ball brings monetary claims for unlawful deduction from wages against her ex-employer the respondent Mr Scott Belsom trading as SJS Security. The respondent denies the claims.

2. This has been a remote hearing on the papers which has been consented to by the parties. The form of remote hearing was by video (CVP). 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 76 pages, the contents of which I have recorded.
3. I have heard from the claimant. I also accepted a short statement of evidence from Mr Joshua Phillips on behalf of the claimant, but I can only attach limited weight to that statement because he was not present to be questioned on his evidence. The respondent did not attend today, and he did not comply with previous Tribunal orders to disclose relevant documents, to agree a bundle of documents, and to provide a written witness statement.
4. There was a degree of conflict between the parties as set out in their tribunal pleadings. The respondent was hampered in establishing his version of events by his non-attendance today, and the complete absence of the relevant documents which would otherwise have supported his assertions. In some instances, documents required by law were not forthcoming and were certainly not in the evidence before me. These include a statement of the claimant's terms and conditions of employment and itemised pay statements. Bearing all of this in mind, 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.
5. The respondent Mr Scott Belsom runs a security business, and he trades as SJS Security. The claimant Miss Sarah Ball was employed by the respondent from 16 March 2022 until she resigned her employment on 24 October 2022. She worked as a Door Supervisor, and she also did additional duties for 10 hours per week dealing with administration, payroll, invoices, and reservations of security staff.
6. The respondent has asserted variously that the claimant was in partnership with him. This is denied by the claimant and there is no evidence of any partnership. I reject that assertion. Alternatively, the respondent has asserted that the claimant was employed by, and the correct respondent is, SJ Security Solutions Sussex Ltd. However, there is no such limited company on the register of companies. I reject the assertion that the claimant was employed by this company, which does not exist. I accept the claimant's evidence that she was employed personally by Mr Belsom who was trading as SJS Security, and he is the correct respondent to the claimant's claim.
7. The respondent failed to pay the claimant the wages due to her for October 2022 amounting to £679.00 gross. This would ordinarily have been paid in November 2022, but no such payment was made. This sum was unlawfully deducted from the wages due to the claimant.
8. In addition, the claimant had previously been required by the respondent to deduct 25% of gross wages payable to employees pending registration of his business with HM Revenue and Customs. 25% of the claimant's wages for the months of May to September 2022 inclusive (which were paid in arrears between June and October 2022) were thus deducted from the gross sums otherwise payable to the claimant. These deductions amounted to £598.40 in total for those five months. However, the respondent failed to make these payments to HMRC, and they have therefore been unlawfully deducted from the claimant's wages.
9. The respondent has therefore made unlawful deductions from the claimant's wages totalling £1,277.40.
10. The claimant commenced the Early Conciliation process with ACAS on 28 November 2022, and ACAS issued the Certificate on 21 December 2022. The claimant presented these proceedings on 13 February 2023. Her only claim was for unlawful deduction from wages. The respondent entered a response to these proceedings. He also asserted that the claimant continued to owe him money which she had taken from the business. For some reason that was registered at the Tribunal office as an employer's contract claim. The claimant entered a response denying that claim, and asserting (correctly in my view) that this Tribunal did not have jurisdiction to hear the employer's contract claim because no breach of contract claim had been presented in the first place by the claimant.

11. Having established the above facts, I now apply the law.
12. The Law:
13. The claimant claims in respect of deductions from wages which she alleges were not authorised and were therefore unlawful deductions from her wages contrary to section 13 of the Employment Rights Act 1996.
14. An ex-employee is entitled to present a claim to this Tribunal for breach of contract provided that the sum claimed is outstanding on the termination of employment, by virtue of under article 3 of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994 ("the Order"). An employer is entitled to enter a counterclaim in response in respect of monies owed resulting from an alleged breach of contract by that ex-employee, but article 4(d) of the Order only permits this if the claimant has first presented a claim for breach of contract under article 3.
15. Judgment:
16. I deal first with the claimant's claim for unlawful deduction from wages.
17. As noted in the findings of fact above, the respondent has made unlawful deductions from the claimant's wages totalling £1,277.40.
18. Accordingly, the respondent is ordered to pay the claimant the gross sum of £1,277.40.
19. I deal secondly with the respondent's counterclaim by way of the employer's contract claim against the claimant. The claimant has not presented any claim for breach of contract under article 3 of the Order. Accordingly, this Tribunal does not have jurisdiction to hear the respondent's claim for breach of contract against the claimant by way of an employer's contract claim, because article 4(d) only permits that if the claimant has first presented a claim for breach of contract under article 3.
20. The employer's contract claim is therefore dismissed.

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Employment Judge N J Roper  
Dated 4 August 2023

Judgment sent to Parties on 21 August 2023

For the Tribunal Office