



## EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4102569/2023

5

Final hearing held on the Cloud Video Platform  
on 15 August 2023

Employment Judge A Jones

10

**Ms I Olczak**

**Claimant**  
**No appearance**

15

**New Whites (Leith) Ltd**

**Respondent**  
**Represented by**  
**Mr Singh**

### JUDGMENT

20 The claimant's claims are dismissed.

### REASONS

1. The claimant lodged a claim on 31 March 2023 complaining of unlawful deduction from wages in respect of Statutory Sick Pay and holiday pay.
- 25 2. A final hearing which had been due to take place on 13 June was postponed at the request of the respondent. A further notice of hearing was sent to parties on 21 June. The Tribunal has had no contact from the claimant since an email on 12 June providing her availability for that hearing.
3. The clerk to the Tribunal had sought to carry out tests with the claimant to ensure that she could participate in the hearing remotely today. The clerk was  
30 unable to make contact with the claimant in advance of this hearing despite attempts by email and phone. An interpreter was available this morning for the benefit of the claimant.
4. The claimant did not appear this morning at the allocated time. The clerk  
35 sought to contact her by phone but was unable to do so or to leave a

message. After a number of attempts, the clerk informed the Tribunal that it now appeared that the claimant's phone had been switched off.

- 5           5. Mr Singh appeared for the respondent. The respondent's position is that no sums are due to the claimant, albeit there was some confusion as to whether she was entitled to any payments of holiday pay. Mr Singh indicated that the respondent was directed by their accountants in that regard and that the claimant had not been dismissed by them.
- 10           6. In the circumstances, Mr Singh confirmed that it was the respondent's position that the claim should be dismissed. He indicated that he had had no contact with the claimant this year.
7. The claimant had not made any application to postpone today's hearing. She did not suggest that she would not be available for the hearing. All efforts to contact her by email and telephone to conduct tests and then to determine her whereabouts have been unsuccessful.
- 15           8. The Tribunal would also take the opportunity to clarify that it is has limited jurisdiction in terms of determining whether a failure to pay Statutory sick pay amounts to an unlawful deduction from wages.
9. In any event, in the absence of the claimant, any evidence from her regarding what deductions from her wages have said to have been made, the Tribunal
- 20           was satisfied that the claim should be dismissed.

**Employment Judge:           A Jones**  
**Date of Judgment:           15 August 2023**  
**Entered in register:         16 August 2023**  
**and copied to parties**