



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Ms Lynsey Suffolk and 14 Ors.
(see Schedule attached)

v

Tradewind Voyages UK Limited

Heard at: Bury St Edmunds

On: 12 and 13 June 2023

Before: Employment Judge K J Palmer (sitting alone)

Appearances

For the Claimants: In person

For the Respondent: Did not attend and was not represented

JUDGMENT

Pursuant to an 'in person' Hearing

Background

1. Ms Suffolk presented a claim to this Tribunal on 20 June 2022. In it she raised claims for unpaid salary by way of a claim for unlawful deduction of wages and other payments, principally pension contributions.
2. As part of her ET1 she included claims for 13 other employees of the Respondent who had similar claims. Some included claims for unpaid expenses as well as unpaid salary and unpaid employer pension contributions.
3. Essentially, the Respondents are a company that specialised in specialist adventure sailing in a square rigged sailing ship.
4. The company started in or about early 2020, just prior to the Covid pandemic. The first voyages were scheduled to take place in the summer of 2021.
5. For whatever reason and it may have been as a result of a combination of the pandemic and / or the difficulty in maintaining financial backing through a Russian owned bank, the company appears to have run into financial difficulties.

6. The upshot is that Ms Suffolk and the other Claimants continued to work in March, April, May, June and July of 2022 and received payslips but no payment. Some of the Claimants, as explained below, left during that period. Therefore some Claimants are pursuing unlawful deduction for several months and some for lesser periods.
7. The company remains registered and as far as the Tribunal is aware, is not in Administration or in any other type of insolvency.
8. The various Claimants before me explained that they had had promises made by the individual they perceived to be the owner of "Tradewind Voyages", Tomislav Debeljak who the Tribunal understands is a Croatian national, that they would be paid for the period of time which they worked, but no payment has ever been forthcoming and all of the Claimants before me pursue claims for pay for work that they did, but did not receive.

Consolidation

9. A separate claim was brought before this Tribunal by Lisa Lightly which was presented on 30 May 2022. Subsequently, the matter came before me and I consolidated that claim with the claims originally presented by Ms Suffolk.
10. There were therefore 15 claims before me today.
11. The vast majority of Claimants attended today. Only three were not here: Ms Lightly whose claim was consolidated with the claims presented by Ms Suffolk; a Ms Rachael Healey, one of the Claimant's in the original claim presented by Ms Suffolk; and Ms Clare Wilmer another of the Claimants in the original claim presented by Ms Suffolk. I shall deal with those separately below.
12. With respect to the 13 Claimants who attended before me today, I heard from all of them. Each one had gone to great pains to comply with the directions I made when the matter came before me on paper on 15 March 2023. They all produced individual documentary evidence to support their claims, for which I am most grateful.
13. Many produced personal witness statements and I heard from each one in turn.
14. No ET3 has ever been filed by the Respondent.
15. Having heard from all of the Claimants I am satisfied that they worked when they say they did and they did not receive payment for that work.
16. I therefore resolved to deal with each and every Claimant in turn. I leave those Claimants who did not attend today to the end of this Schedule.

17. I took each claim in the order in which the documentation had been presented to me. I stress that there is no particular science in the order that I dealt with each claim, other than simply that.

Ms Maddi Taylor – Claim number: 3300053/2023

18. Ms Taylor worked for the month of March 2022, April 2022, May 2022, June 2022 and part of July 2022. Amongst the unlawful deductions claimed by Ms Taylor is statutory maternity.
19. I heard from Ms Taylor and I am entirely satisfied that the figures she has produced are accurate and that she was entitled to be paid the sum she claims. It is helpful that pay slips were produced by the Respondents, albeit that payments pursuant to those payslips were not made.
20. Unlawful deductions of wages awards are made 'gross'. When the company pays the sums awarded, they will have to deduct Tax and National Insurance.

The Tribunal finds that there has been an unlawful deduction of wages and makes a declaration to that effect

21. The following sums are awarded:

21.1	March 2022:	£3,000.00;
21.2	April 2022:	£4,246.16;
21.3	May 2022:	£5,648.98;
21.4	June 2022:	£3,626.64; and
21.5	July 2022:	£2,426.64

Total: £18,948.42

Employer Pension Contributions

22. The Claimants also pursue claims for unpaid Employer Pension Contributions which they were contractually entitled to and which were not paid throughout March, April, May, June and July of 2022. This is a contractual claim. I had before me their contracts of employment and I have heard from them. I am satisfied that having seen these documents, heard from the Claimants and seen the sums specified as Employer Pension Contributions on the payslips relating to the months when no pay was received, that the employees succeed in these contractual claims.
23. Maddi Taylor is therefore awarded the following sums via damages arising out of that contractual claim:
- | | | |
|------|-------------|----------|
| 23.1 | March 2022: | £127.39; |
| 23.2 | April 2022: | £127.39; |
| 23.3 | May 2022: | £169.47; |

23.4	June 2022:	£90.80; and
23.5	July 2022:	£90.80
Total:		£605.85

24. The total payable by the Respondent to Maddi Taylor: **£19,554.27**

Mr Mark Schmidt Case no 3300049/23

25. I heard from Mr Schmidt, like all the other Claimants he was informed towards the end of March 2022 that payment of salary would be delayed. He carried on working until mid-May 2022. He seeks unlawful deduction of wages for March, April and May of 2022.

26. He also seeks unpaid expenses as a breach of contract claim under his contract of employment.

The Tribunal finds that there has been an unlawful deduction of wages and makes a declaration to that effect

27. The following sums are awarded:

27.1	March 2022:	£5,416.67;
27.2	April 2022:	£5,416.67; and
27.3	May 2022:	£4,750.00

Contractual claims

27.4	Expenses:	£876.33; and
27.5	Expenses:	£131.85

Employer Pension Contributions

27.6	March 2022:	£162.51;
27.7	April 2022:	£162.51; and
27.8	May 2022:	£162.51

28. The total sum payable by the Respondent to Mark Schmidt: **£17,029.05**

Ms Shelley Stevens Case no 3300050/23

29. Ms Stevens left the Respondent on 22 April 2022 and pursues claims for unlaw deduction of wages for March and April and Employer Pension Contributions.

The Tribunal finds that there has been an unlawful deduction of wages and makes a declaration to that effect

30. The following sums are awarded:

31.1 March 2022: £2,333.33; and
31.2 April 2022: £2,369.23

Employer Pension Contributions

31.3 March 2022: £71.08; and
31.4 April 2022: £71.08

31. The total sum payable by the Respondent to Ms Stevens: **£4,844.72**

Ms Catherine Harber Case No 3300045/23

32. Ms Harbour, who left at the end of May 2022, pursues claims for unpaid salary for March, April and May 2022 and unpaid expenses in breach of contract and unpaid Employer Pension Contributions.

The Tribunal finds that there has been an unlawful deduction of wages and makes a declaration to that effect

33. The following sums are awarded:

33.1 March 2022: £2,333.33;
33.2 April 2022: £2,333.33;
33.3 May 2022: £2,333.33; and
33.4 June 2022: £ 323.08

Contractual claims

33.5 Expenses: £715.64.

Employer Pension Contributions

33.6 March 2022: £70.00;
33.7 April 2022: £70.00;
33.8 May 2022: £70.00; and
33.9 June 2022: £70.00

34. The total sum payable by the Respondent to Ms Harbour: **£8,318.71**

Ms Emma Garratt Case no 3300048/23

35. Ms Garratt, who left in mid-April 2022, claims unlawful deduction of wages for March and April 2022, plus Employer Pension Contributions in breach of contract for March and April 2022.

36. She also claims expenses payable on her contract of employment and not paid to her. These were legitimate claims.

The Tribunal finds that there has been an unlawful deduction of wages and makes a declaration to that effect

37. The following sums are awarded:

37.1	March 2022:	£1,666.67;
37.2	April 2022:	£1,666.67;
37.3	May 2022:	£2,000.00; and
37.4	June 2022:	£2,876.95

Contractual claim

37.5	Expenses:	£254.58
------	-----------	---------

Unpaid Employer Pension Contributions

37.6	March 2022:	£50.01;
37.7	April 2022:	£50.01;
37.8	May 2022:	£50.01; and
37.9	June 2022:	£50.01

38. The total sum payable by the Respondent to Ms Garratt: **£8,664.91**

Ms Tracey Cartwright Case no 3300047/23

39. Ms Cartwright, who left the Respondent on 20 April 2022, seeks unlawful deduction of wages for March and April 2022 and Employer Pension Contributions.

The Tribunal finds that there has been an unlawful deduction of wages and makes a declaration to that effect

40. The following sums are awarded:

40.1	March 2022:	£2,500.00; and
40.2	April 2022:	£2,192.30

Employer Pension Contributions

40.3	March 2022:	£65.77; and
40.4	April 2022:	£65.77

41. The total sum payable by the Respondent to Ms Cartwright: **£4,823.84**

Mr Jack Young Case no 3300054/23

42. Mr Young left the Respondents on 14 May 2022. He is seeking unlawful deduction of wages for March, April and May 2022 and Employer Pension Contributions for March, April and May 2022.

The Tribunal finds that there has been an unlawful deduction of wages and makes a declaration to that effect

43. The following sums are awarded:

43.1	March 2022:	£2,500.00;
43.2	April 2022:	£2,500.00; and
43.3	May 2022:	£1,442.31

Employer Pension Contributions

43.4	March 2022:	£75.00;
43.5	April 2022:	£75.00; and
43.6	May 2022:	£75.00

44. The total sum payable by the Respondent to Mr Young: **£6,667.31**

Mr Gerard Hogan Case no 3300051/23

45. Mr Hogan left the Respondents on 30 June 2022. He seeks unlawful deduction of wages for March, April, May and June 2022. He also seeks under a contractual claim unpaid Employer Pension Contributions.

The Tribunal finds that there has been an unlawful deduction of wages and makes a declaration to that effect

46. The following sums are awarded:

46.1	March:	£6,041.67;
46.2	April:	£6,041.67;
46.3	May:	£6,041.67; and
46.4	June:	£6,041.67

Employer Pension Contributions

46.5	March:	£181.26;
46.6	April:	£181.26;
46.7	May:	£181.26; and
46.8	June:	£181.26

47. The total sum payable by the Respondent to Mr Hogan: **£24,891.72**

Mr David Pearton Case no 3300052/23

48. Sadly Mr Pearton passed away and is represented today by his son, his Personal Representative Mr G Pearton. Mr Pearton in his claims pursues unlawful deduction of wages claims for March, April and May 2022. He left on 20 May 2022. He also pursues contractual claim for unpaid Employer Pension Contributions.

The Tribunal finds that there has been an unlawful deduction of wages and makes a declaration to that effect

49. The following sums are awarded:

49.1	March 2022:	£4,166.67;
49.2	April 2022:	£4,166.67; and
49.3	May 2022:	£4,519.22

Employer Pension Contributions

49.4	March 2022:	£125.01;
49.5	April 2022:	£125.01; and
49.6	May 2022:	£125.01

50. The total sum payable by the Respondent to Mr Pearton: **£13,227.59**

Ms Poppy Brown Case no 3300057/23

51. Ms Brown left the Respondents on 21 April 2022. She pursues claims for unlawful deduction of wages for March and April 2022. She also pursues contractual claim for unpaid Employer Pension Contributions.

The Tribunal finds that there has been an unlawful deduction of wages and makes a declaration to that effect

52. The following sums are awarded:

52.1	March 2022:	£2,333.33; and
52.2	April 2022:	£2,315.38

Employer Pension Contributions

52.3	March 2022:	£69.47; and
52.4	April 2022:	£69.47

53. The total sum payable by the Respondent to Ms Brown: **£4,787.65**

Ms Sophie Barrett Case no 3300056/23

54. Ms Barrett left the Respondents on first week in May 2022. She pursues claims for unlawful deduction of wages for March, April and May 2022. She also pursues contractual claim for unpaid Employer Pension Contributions.

The Tribunal finds that there has been an unlawful deduction of wages and makes a declaration to that effect

55. The following sums are awarded:

55.1	March 2022:	£2,083.33;
55.2	April 2022:	£2,083.33; and
55.3	May 2022:	£ 817.29

Employer Pensions Contributions

55.4	March 2022:	£62.50;
55.5	April 2022:	£62.50; and
55.6	May 2022:	£62.50

56. The total sum payable by the Respondent to Ms Barrett: **£5,171.45**

Ms Lynsey Suffolk Case no 3312980/22

57. Ms Suffolk left the Respondents in April 2022. She seeks unlawful deduction of wages for salary not paid in March and April 2022 and a contractual claim in respect of unpaid Employer Pension Contributions for the same months.

The Tribunal finds that there has been an unlawful deduction of wages and makes a declaration to that effect

58. The following sums are awarded:

58.1	March 2022:	£2,083.33; and
58.2	April 2022:	£1,826.92

Employer Pension Contributions

58.3	March 2022:	£54.81; and
58.4	April 2022:	£54.81

59. The total sum payable by the Respondent to Ms Suffolk: **£4,019.87**

60. Three of the Claimants pursuing their claims today were not present.

Ms Lisa Lightly Case no 3306385/22

61. Ms Lightly brought a separate claim which was consolidated with the claim fronted by Ms Lynsey Suffolk. As with all of these claims no ET3 was lodged. Ms Lightly has not included sufficient information for me to be able to find and make a Judgment in her favour. She pursues a claim for unlawful deduction of wages and a contractual claim for unpaid expenses.
62. I understand from the other Claimants present that they understood Ms Lightly had written to the Tribunal to explain why she was unable to attend today. If that is the case, no documentation was forwarded to me in that respect.
63. I caused a letter to be written to the parties on 15 March 2023 seeking the parties attendance with all appropriate documentation. In respect of those above, in respect of which I have given Judgment, they attended and brought all necessary documentation for me to be able to calculate the precise sums in Judgment in their favour. I am not in a position to do that with Ms Lightly. I propose to cause a further letter to be sent to her in the hope that she can provide this information. That will be sent separately by the Tribunal.

Ms Rachael Healey – Case Number: 3300046/2023

64. Ms Healey did not attend today, but I do have documentary evidence provided by her colleagues. It seems to me that I am in a position to find in her favour. She is seeking unlawful deduction of wages for March, April and May 2022 and a contractual claim for unpaid Employer Pensions Contributions for the same months. She also seeks a contractual claim in expenses.
65. I have sufficient documentation in front of me to be able to give Judgment in her favour on the basis of the powers vested in me under Rule 21 of the Employment Tribunal Rules of Procedure 2013.

The Tribunal finds that there has been an unlawful deduction of wages and makes a declaration to that effect

66. The following sums are awarded:

66.1 March 2022: £4,500.00;
66.2 April 2022: £4,500.00; and
66.3 May 2022: £3,427.00

Employer Pension Contributions

66.4 March 2022: £135.00;
66.5 April 2022: £135.00; and
66.6 May 2022: £135.00

Contractual claims

66.7 Expenses: £735.96

67. The total sum payable by the Respondent to Ms Healey: **£13,567.96**

Ms Clare Wilmer Case no 3300055/23

68. Ms Wilmer did not attend today, I have only minimal evidence in front of me to evidence the claim she is pursuing. No documents were provided. Accordingly, I cannot give Judgment in her favour under Rule 21 and will cause an appropriate letter to be sent to her to give her further opportunity.

29 August 2023

Employment Judge K J Palmer

Date: ...29 August 2023.

Sent to the parties on: ..30/8/ 2023...

.....
For the Tribunal Office.

3300045/2023	Ms Katherine Harber
3300046/2023	Ms rachel healey
3300047/2023	Ms tracey cartwright
3300048/2023	Ms emma garrett
3300049/2023	Mr mark schmitt
3300050/2023	Ms shelley stevens
3300051/2023	Mr gerald hogan
3300052/2023	Mr david pearton
3300053/2023	Ms maddie taylor
3300054/2023	Mr jack young
3300055/2023	Ms Clare Willmer
3300056/2023	Ms sophie barrett
3300057/2023	Ms poppy brown