



EMPLOYMENT TRIBUNALS

Claimant: Mr G Smith

Respondent: Marshall Eaton Holdings Limited

Before: Employment Judge Ramsden

Heard at: London South **On:** 9 October 2023

Representation:
Claimant In person
Respondent Mr Khan, Director of Treasury and Internal Audit

JUDGMENT

1. The Claimant's claim of unfair dismissal is struck-out.
2. The Tribunal does not have jurisdiction to hear the Claimant's complaints about unauthorised deductions from his wages in respect of unpaid pension contributions, as exclusive jurisdiction to enforce non-payment of unpaid pension contributions in respect of automatic enrolment obligations lies with The Pensions Regulator. Nor does the Tribunal have jurisdiction in respect of the Respondent's failure to make employer-side pension contributions. Those complaints therefore fail.
3. The Claimant's remaining claims of:
 - a) Unauthorised deduction from his wages in respect of wages he earned in the period 1 November to 13 February 2023; and
 - b) Unauthorised deduction from his wages in respect of holiday he had accrued but not been paid for at the time his employment terminated, in respect of five days,succeed.
4. The Respondent is Ordered to pay to the Claimant:
 - a) **£23,095.24** in respect of unpaid wages, calculated as follows: the Claimant earned £80,000 per annum. The period of non-payment represents three complete months (3/12 x £80,000, totalling £20,000) and 13 days of February 2023 (13/28 x 80,000/12, totalling £3,095.24); and

- b) **£1,762.11** in respect of accrued but untaken holiday as at the date the Claimant's employment terminated. This is calculated as follows: the parties agree that the Claimant's outstanding entitlement was five days' pay. He was paid £80,000 per annum. He was entitled to 26 days' holiday per year, along with eight public/bank holidays. He was not required to work weekends. Consequently, he was expected to work 365 days less:
- (i) (52 x 2) days for weekends;
 - (ii) 26 days' holiday; and
 - (iii) eight public/bank holidays,
- i.e., 227 working days. This meant that his £80,000 per annum salary equated to a daily rate for each working day of £352.42, so payment in lieu of five days' holiday amounts to £1,762.11.
5. The Respondent's Employer's Contract Claim in respect of what it says is the Claimant's failure to return IT equipment fails for lack of jurisdiction. The Claimant did not bring a breach of contract claim, and so the Employment Tribunal does not have jurisdiction to determine the Employer's Contract Claim.

Employment Judge Ramsden
Date: 9 October 2023