



EMPLOYMENT TRIBUNALS (SCOTLAND)

5

Case No: 4105663/2022 (V)

Held at Aberdeen on 15 May 2023

10

Employment Judge N M Hosie

Mrs R Dodge

**1st Claimant
In Person**

15

Mr R Coombe

**2nd Claimant
In Person**

20

25

G & M Properties Scotland Ltd

**Respondent
No Appearance**

30

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

35

The Judgment of the Tribunal is that: -

- 1) the claims under s.23 of the Employment Rights Act 1996 are well-founded;
and

40

E.T. Z4 (WR)

- 2) the respondent shall pay to each claimant the sum of Three Thousand and Eleven Pounds and Fifty Pence (£3,011.50), under deduction of the appropriate amounts of income tax and national insurance, as unlawful deduction of wages.

5

REASONS

Introduction

- 10 1. The claimants brought claims of unlawful deduction of wages. The claim form was first intimated to the respondent Company on 21 October 2022 at the following address: "Head Office, Suite 14, 1 Fraser Street, Inverness, Ross-shire, IV1 1DW". No ET3 Response form was submitted. It then emerged that the respondent had the following address: "Queensgate Business
15 Centre, 1 Fraser Street, Inverness, IV1 1DW". A further Notice of Claim was sent to the respondent at that address on 20 January 2023, as directed by Employment Judge McManus. However, an ET3 Response form was still not submitted. Accordingly, a Final Hearing was fixed for 15 May 2023. A Notice of the Hearing was sent to the respondent on 3 March 2023 "For Information
20 Only".

The Hearing

- 25 2. Both claimants appeared at the Hearing which was conducted by video conference using the Cloud Video Platform ("CVP"). There was no appearance by, or on behalf, of the respondent. The claimants' evidence, under oath, was measured, consistent and corroborative. It was also consistent with a statement headed "Calculation of Wages" and copies of supporting documentary productions ("P") which the claimants had sent to
30 the Tribunal on 12 April 2023. This statement and the documents were also sent to the respondent by recorded delivery on 10 April and were "signed for" (P10). Both claimants presented as entirely credible and reliable.

Findings in fact

3. Having heard the claimants' evidence and considered the documentary productions, I was able to make the following findings in fact. The claimants
5 commenced their employment with the respondent Company on 19 July 2022. Copies of their terms and conditions of employment were produced (P.1-4). They were employed primarily as Managers of the Waverly Inn, Dingwall and they were also required to manage the nearby Royal Guest House, both of which are owned by the respondent Company. Although they
10 had been advised by the respondent's Area Manager, Robert Norris, that they would only be required to work around six hours each day, they had to work considerably longer. They had to start at 5am each day and were not normally finished work until around 11pm, and often later if there were late check-ins. Both establishments they managed were understaffed and as a consequence
15 the claimants were required, amongst other duties, to prepare breakfast for residents, sort out cleaning schedules and attend to cleaning the 20 rooms. In addition, Mr Coombe had to cover reception and do maintenance work and Mrs Dodge had to wash, dry and iron bedding. They worked six and a half days each week
20
4. They complained frequently to Mr Norris about the hours they had to work, but to no avail.
- 25 5. On 23 August 2022, Mr Norris wrote to the claimants to terminate their employment with effect from 1 September 2022 (P.5). The claimants' dispute his contention that "the demand for the rooms in Dingwall is shrinking".

Wages due

6. I was satisfied that both claimants worked on average 96 hours per week. The living wage at the time was £9.50 per hour. Accordingly, for the six weeks
5 they worked for the respondent they each should have received a total of £5,472 (96 x 6 x £9.50). The wages slips which they produced reveal that they only received a total of £2,460.50 (P.6-9). Accordingly, there was an unlawful deduction from their wages of **£3,011.50** and this sum requires to be paid to each claimant, under deduction of the appropriate amounts of
10 income tax and national insurance.

15 **Employment Judge: N M Hosie**
Date of Judgement: 24 May 2023
Date sent to Parties: 24 May 2023