



EMPLOYMENT TRIBUNALS

Claimant: Mr K Kay

Respondent: NE Sunderland Limited

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

1. The Claimant's complaint that the Respondent failed to provide him with itemised pay statements is well founded and succeeds. The Tribunal considers it just and equitable to award the claimant compensation.
2. The Respondent is ordered to pay to the Claimant the sum of **£142.78** being the aggregate of the unnotified deductions in the 13 week period immediately preceding the date of the reference to the Tribunal.

REASONS

1. On **08 August 2023**, the referred to the Tribunal a complaint under section 11 Employment Rights Act 1996 that his former employer had failed to provide him with payslips in contravention of its statutory obligation under section 8 of that Act.
2. The proceedings were served on the Respondent at the address provided by the Claimant, which is the Respondent's registered office, with a response date of **29 September 2023**. No response was returned.
3. Under rule 21 of the Tribunal Rules of Procedure 2013, where on the expiry of the time limit in rule 16 no response has been presented and no application for a reconsideration is outstanding, an employment Judge shall decide whether on the available material, a determination can properly be made of the claim or part of it. If there is, the judge shall issue a judgment, otherwise a hearing must be fixed before a judge alone.

4. The Claimant wrote to the Tribunal, on **12 October 2023** identifying as best he could the amounts deducted from his pay on **05 July 2023** and **05 August 2023**, being £74.84 and £67.94 respectively.
5. The Claimant was at the Respondent's Papa John's restaurant in Sunderland. He asked repeatedly for his payslips and was told variously that they would be emailed or posted and lost. He was never provided with them.
6. By virtue of section 8 Employment Rights Act 1996 provides as follows:
 - (1) A worker has the right to be given by his employer, at or before the time at which any payment of wages or salary is made to him, a written itemised pay statement.
7. Section 11 of the Employment Rights Act provides:
 - (1) Where an employer does not give an employee a statement as required by section 1, 4 or 8 (either because he gives him no statement or because the statement he gives does not comply with what is required), the employee may require a reference to be made to an employment tribunal to determine what particulars ought to have been included or referred to in a statement so as to comply with the requirements of the section concerned.
8. Section 12(3) of the Act provides that where the Tribunal finds that an employer has failed to provide the worker with any pay statement in accordance with section 8, it shall make a declaration to that effect. Where it further finds that any unnotified deductions have been made from the pay of the worker during the period of thirteen weeks immediately preceding the date of the application for the reference, it may order the employer to pay the worker a sum not exceeding the aggregate of the deductions so made.
9. I was satisfied and so find that the Respondent had failed to provide itemised pay statements in July and August 2023 and that unnotified deductions of tax and NI were made from the payments made in those months in the amounts set out in the Claimant's email of 12 October 2023 and referred to in paragraph 4 above. I was satisfied that I had sufficient information to make a declaration and that it was just and equitable to make an award. Therefore, I was able to issue a judgment under rule 21 of the ET Rules of Procedure 2013.

Employment Judge Sweeney

Date: 30 October 2023

