



EMPLOYMENT TRIBUNALS

Claimant: Mr D Alderson

Respondent: Synpower Merchant Services Limited

Heard at: Birmingham (by CVP)

On: 27 November 2023

Before: Employment Judge Edmonds

Representation

Claimant: In person

Respondent: Did not attend

JUDGMENT

1. The respondent did not attend the hearing but had confirmed to the Tribunal by email dated 27 November 2023 that the respondent would “adhere to the hearing outcome and settle as set out by the Tribunal”. The Tribunal therefore decided to proceed in the respondent’s absence.
2. The claimant, through his representative at that time, withdrew his claim for unfair dismissal by email dated 21 July 2022. That claim is dismissed upon withdrawal.
3. The claimant withdrew his claim for notice pay by email dated 22 November 2023. In that email he confirmed his intention to pursue a claim for notice pay in the civil courts instead. Therefore, whilst the claimant’s claim for notice pay has been withdrawn in accordance with Rule 51 of the Employment Tribunal Rules, the Tribunal does not dismiss that claim given that, in accordance with Rule 52 of the Employment Tribunal Rules, the claimant has expressed at the time of withdrawal a wish to reserve the right to bring such a further claim and the Tribunal is satisfied that there would be legitimate reason for doing so.

Unlawful deductions from wages

4. The claimant’s complaint of unauthorised deductions from wages is well-founded. The respondent made an unauthorised deduction from the claimant’s wages in respect of the period 1 to 15 October 2021, which was payable to him on or around 31 October 2021.
5. The respondent shall pay the claimant **£3,593.61** which is the gross sum deducted. The respondent is entitled to make any deductions which are due for tax and

National Insurance before payment is made to the claimant, however if the respondent does not do so, the claimant is responsible for the payment of any tax or National Insurance.

6. The gross sum has been calculated as follows:
 - a. The period of deduction, from 1 October to 15 October 2021, constitutes 2 working weeks plus one working day.
 - b. The claimant's annual salary was £75,000 and his annual car allowance was £9,939.96 (based on his monthly car allowance of £828.33 as set out on his payslips).
 - c. The weekly rate of pay is therefore as follows:
 - i. Basic salary: £1,442.31
 - ii. Car allowance: £191.15
 - d. The daily rate of pay is as follows (based on a 5 day working week):
 - i. Basic salary: £288.46
 - ii. Car allowance: £38.23
 - e. The total unlawful deduction from wages has therefore been calculated by adding two weeks plus one day of both basic salary and car allowance (£1,442.31 + £1,442.31 + £288.46 + £191.15 + £191.15 + £38.23).

Holiday pay

7. The claimant's complaint in respect of holiday pay is well-founded. The respondent made an unauthorised deduction from the claimant's wages on or around 31 October 2023 by failing to pay the claimant for holidays accrued but not taken on the date the claimant's employment ended. The respondent failed to pay the claimant in accordance with regulation 14(2) of the Working Time Regulations 1998.
8. The respondent shall pay the claimant **£4,083.65** which is the gross sum deducted. The respondent is entitled to make any deductions which are due for tax and National Insurance before payment is made to the claimant, however if the respondent does not do so, the claimant is responsible for the payment of any tax or National Insurance.
9. The gross sum has been calculated as follows:
 - a. The claimant worked for 79% of the holiday year and, based on his annual holiday entitlement of 25 days per annum, had accrued 20 days' leave by the termination date.
 - b. The claimant carried forward 8 days' leave from the previous holiday year.
 - c. Therefore the claimant had accrued a total of 28 days' leave as at the termination date.
 - d. The claimant had taken 15.5 days' leave in the 2021 holiday year, therefore the claimant had 12.5 days' accrued but untaken leave as at the termination date. This was therefore 2.5 weeks' leave.

- e. The claimant's weekly rate of pay is £1,442.31 (basic salary) plus £191.15 (car allowance), totalling £1,633.46.
- f. Two and a half weeks pay is therefore £4,083.65.

Statutory redundancy pay

- 10. Under section 163 Employment Rights Act 1996 it is determined that the claimant is entitled to a redundancy payment of **£2,448**, which has not as yet been paid to the claimant.

Employment Judge Edmonds

Date 27 November 2023

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>