



EMPLOYMENT TRIBUNALS

Claimant: Mr Alby Webb

Respondent: Apex K9 Services Limited

Heard at: Bury St Edmunds Employment Tribunal **On: 15 November 2023**

Before: Employment Judge Michell (sitting alone)

Appearances:

For the claimant: In person

For the respondent: No appearance or representation

JUDGMENT

The claimant's claim of unlawful deduction from wages is well founded. The respondent made an unauthorised deduction from the claimant's wages in the period 19 September 2022 to November 2022.

The respondent shall pay the claimant **£1,590**, which is the net sum deducted. The respondent is responsible for the payment of any tax or National Insurance.

REASONS

1. I give these reasons further to my oral reasons and judgment today, in the light of the respondent's non-attendance.

2. By a claim presented to the tribunal on 16 January 2023, the claimant brought a claim for unpaid wages in respect of his work for the respondent as a dog trainer from 19 September until 1 November 2022. Liability is denied in the notice of appearance.
3. The parties were sent notification of today's hearing under cover of a letter from the tribunal dated 20 July 2023. The letter also set out directions to be followed in preparation for the hearing.
4. The respondent (Mr Byran) did not attend. Inquiries were made by telephone by the tribunal staff. Mr Bryan's partner said he was in hospital. Mr Byran was then directly telephoned by the tribunal staff. Once he had been told that his partner had said he was in hospital, he said he had a hospital appointment at 10:30am, in Cambridge. He confirmed that the address to which the notice of hearing had been sent was correct.
5. He had made no application to adjourn. Nor has he provided any advance details regarding any appointment at any hospital. (He had also not complied with any of the directions set out in the 20 July 2023 order -albeit nor had the claimant). In those circumstances, I therefore considered that it was appropriate to proceed today.
6. I heard evidence from the claimant, who provided a variety of documents including phone messages, bank statements, and his contract of employment with the respondent (for full time work). Although the contract does not set out a payment rate, he told me the agreement had been that he would get paid about £90 pounds per day. He told me he worked full time, and that he ought to have been paid on the 1st of the month. He played me a voice mail WhatsApp recording from Mr Bryan, in which Mr Bryan told him on 7 November 2022 that he owed him £2,160 and that he would "100%" pay him that sum "on Monday" . He showed me bank statement evidence that he was then paid £570 by the respondent on Monday 14 November 2022 to 'tide him over'. The claimant said he was owed the difference, of £1,590 pounds. I accepted that evidence. I gave judgement in that sum accordingly.
7. Due to Mr Byran's non attendance I did not deal with the respondent's contract claim, regarding the claimant's alleged breach of a post termination restraint. However, I do observe that pursuant to Art 5 of the Employment Tribunals Extension

of Jurisdiction Order 1994 the tribunal does not in any event have jurisdiction to adjudicate over a contract claim (even assuming a loss could otherwise be made out, for breach of an otherwise enforceable term) regarding a term which is “a covenant in restraint of trade”.

Employment Judge Michell

Date: 15 December 2023

Sent to the parties on:

12 January 2024

For the Tribunal:

T Cadman