



EMPLOYMENT TRIBUNALS

Claimant: Miss Cheshire
Respondent: Flavourtown Bakery Limited

Heard at: Watford Employment Tribunal
On: 9 January 2024
Before: Employment Judge Shrimplin

Representation

Claimant: litigant in person
Respondent: did not attend

JUDGMENT

The judgment of the Tribunal is as follows:

Wages

1. The complaint of unauthorised deductions from wages is well-founded. The respondent made an unauthorised deduction from the claimant's wages as follows:
 - 1.1 The respondent made an unauthorised deduction from the claimant's wages by failing to pay the claimant at the appropriate rate of £32,000 per annum after successful conclusion of her three-month probationary period on 5 December 2022 until 10 March 2023, the claimant is awarded **£521.90** which is the gross sum deducted. The claimant is responsible for the payment of any tax or National Insurance.
 - 1.2 The respondent made an unauthorised deduction from the claimant's wages by failing to pay the claimant overtime payments totalling 102.05 hours between 5 December 2022 and 10 March 2023, the claimant is awarded **£1,576.91** which is the gross sum deducted. The claimant is responsible for the payment of any tax or National Insurance.
 - 1.3 The respondent made an unauthorised deduction from the claimant's wages by failing to pay the claimant her signing on bonus, the claimant is awarded **£250** which is the gross sum deducted. The claimant is responsible for the payment of any tax or National Insurance.

Holiday Pay

2. The complaint in respect of holiday pay is well-founded. The respondent made an unauthorised deduction from the claimant's wages by failing to pay the claimant for holidays accrued but not taken on the date the claimant's employment ended.
3. The respondent shall pay the claimant **£615.38** which is the gross sum deducted. The claimant is responsible for the payment of any tax or National Insurance.

Total Award for unauthorised deductions

4. The claimant is therefore awarded a total of **£2,964.19** in respect of unauthorised deductions noted above which is the gross sum deducted and subject to tax and National Insurance.

Breach of contract

5. The complaint in respect of unpaid travel expenses, namely taxi fares incurred due to late working, is well founded and the claimant is awarded **£530.73** which should be repaid in full and is not subject to tax and National Insurance.

Ancillary matters

6. The claimant's claims for additional compensation as set out in the ET1 were withdrawn.
7. The case was listed for a full merits hearing on Tuesday 9 January 2024. The respondent did not attend. The notice of the hearing was sent by the tribunal to the respondent by email to Mr Brooks and to its London address. The claimant had sent a copy of her hearing bundle to the respondent.
8. Where a party fails to attend, Rule 47 of the Employment Tribunals Rules of Procedure 2013 ("the 2013 Rules") applies and provides:

“If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.”
9. Having reviewed the file and caused enquiries to be made, I was satisfied that the respondent was aware of the hearing and, nevertheless, had not attended, nor contacted the court. I noted that the hearing had been adjourned from October at the respondent's request and that claimant had provided a comprehensive hearing bundle.
10. I concluded that the right and just approach under rule 47 Employment Tribunal Rules of Procedure 2013, to proceed in the absence of the respondent. The claimant gave evidence.

11. If the respondent had a genuinely good reason for not attending (whether in person or by a representative), then it can apply for a reconsideration of my above judgment under Rule 70 of the 2013 Rules.
12. However, even if the respondent puts before me cogent evidence why it or a representative did not attend the hearing, in order to persuade me that the interests of justice require the revocation of my above judgment, the respondent will have to say, precisely, on what basis it is asserted that it defends the claims set out above. If the respondent does not, an application for reconsideration will be likely to have no chance of success and will therefore be liable to be dismissed.

Employment Judge K A Shrimplin

Date: 11 January 2024

Sent to the parties on: 31 January 2024

For the Tribunal Office

Written reasons will not be provided unless a written request is presented by either party within 14 days of the sending of this written record of the decision.

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