



## **EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 4105556/2023**

5

**Held in Glasgow via Cloud Video Platform (CVP) on 19 January 2024**

**Employment Judge P O'Donnell**

10 **Mr Jack William Peters**

**Claimant  
In Person**

**James Cowie and Co Ltd**

**Respondent  
Represented by:  
Ms A Trainor -  
Trainee Solicitor**

15

### **JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The judgment of the Employment Tribunal is:

1. The claims for unlawful deduction of wages in respect of the claimant's final salary and pay in lieu of untaken holidays were withdrawn at the hearing and have been dismissed under Rule 52 of the Tribunal Rules of Procedure.
2. The respondent breached a contract between them and the claimant that he would be reimbursed for PPE which he purchased himself. The Tribunal awards the claimant compensation in the sum of £108.88 (one hundred and eight pounds, eighty eight pence) in respect of this breach of contract.

25

### **REASONS**

#### **Introduction**

1. The claimant has brought a claim relating to payments he alleges were due to him at the end of his employment with the respondent. The respondent resists the claim.
2. At the outset of the hearing, the Tribunal sought to clarify which claims remained in dispute.

30

3. First, the claimant had ticked the box on his ET1 for “notice pay” but it was common ground that he had resigned. There was, therefore, no issue that he had been dismissed without notice and was seeking pay in lieu of notice. The claimant explained that he had ticked the box in error and no claim for notice pay was being pursued.
4. Second, the claimant had brought a claim for deduction of wages relating to his final salary and pay in lieu of untaken holidays at the end of his employment. It is correct that these sums were outstanding when the claim was lodged but the claimant accepted that these had been paid subsequently. He was not, therefore, insisting on these claims. The Tribunal treated these claims as being withdrawn and dismissed them under Rule 52.
5. The only claim which was left outstanding was a claim for breach of contract relating to the cost of PPE purchased by the claimant for use at work (that is, a respirator mask and filters for the mask). The claimant alleged that there was an agreement that he could purchase these items and would be reimbursed. The respondent denied that there was any such agreement but, if there was, they said that they had paid some of the costs of these items as a goodwill gesture. The claimant denies receiving any payment in respect of the PPE items he purchased.

## 20 Evidence

6. The Tribunal heard evidence from the following witnesses:
- a. The claimant.
  - b. Dawn Queen (DQ) – the respondent’s office manager.
  - c. Kevin Hodges (KH) – the respondent’s production manager.
7. There was an agreed bundle of documents prepared by the parties. A reference to a page number below is a reference to a page in this bundle.
8. The case turns on two sharp disputes of fact; whether there was an agreement that the claimant could purchase certain items of PPE and would be reimbursed for this; whether the respondent made a payment of £50.44 to

the claimant as repayment for the cost of purchasing filters for his respirator mask.

9. The Tribunal bears in mind that the burden of proof lies on the claimant. He presented a clear and consistent case that there was an agreement that he could make the purchases in question and would be repaid for these.
10. On the other hand, the respondent's case had internal inconsistencies which the Tribunal considers makes it unreliable; despite denying that there was any agreement to reimburse the claimant, the respondent asserted that they did make such a reimbursement when presented with receipts. In particular, the evidence of the respondent's witnesses was that this payment was made without any difficulty and without any question as to whether the claimant was entitled to the payment sought. If there had been no pre-existing agreement then, given the respondent's position that they supplied PPE and employees did not purchase their own, the Tribunal would have expected some question to have been raised when the claimant sought payment for PPE he had purchased.
11. Further, although it was the respondent's position that this payment was made as a goodwill gesture, there was no contemporaneous evidence of this. There was nothing said to the claimant at the time that the payment was being made on such a basis nor was there any evidence that the payment had been authorised on such a basis.
12. The evidence of the respondent's witnesses was also, in certain respects, more equivocal than the claimant's evidence. In particular, neither DQ nor KH could clearly recall making the payment of £50.44 to the claimant but, rather, DQ considered that it was likely that she would have made the payment as this was the normal practice. This stands in contrast to the claimant's evidence which was unequivocal on the point that no payment was received by him. There was also no contemporaneous evidence (such as a signed receipt) that the payment was made to the claimant.
13. For all these reasons, the Tribunal prefers the evidence of the claimant on the issues in dispute. This is reflected in the findings of fact below.

**Findings in fact**

14. The Tribunal made the following relevant findings in fact.
15. The claimant commenced employment with the respondent on 13 March 2023 and his employment came to an end on 15 June 2023.
- 5 16. The claimant's work involved welding. He was provided with a mask by the respondent which was intended to shield his face and eyes from the welding as well as including a respirator to protect him from the smoke produced but he was unhappy with its quality and described blowing "black gunk" out of his nose within a few days of starting work with the respondent.
- 10 17. Shortly after the start of his employment, the claimant spoke to KH about this and asked if he could use his own welding mask and purchase a respirator mask to wear underneath it (along with filters for the respirator). KH agreed to this and confirmed that if the claimant produced receipts for these purchases then he would be reimbursed for these.
- 15 18. The claimant proceeded to purchase a respirator mask and filters for use in it on 18 March 2023 within a day or so of his conversation with KH. The claimant purchased further filters on 13 April and 2 May (two purchases). Copies of the receipts for these purchases appear at pp65-68.
19. The claimant presented these receipts to the respondent but no  
20 reimbursement was paid to him.

**Decision**

20. Given the Tribunal's conclusion on which evidence it prefers and the findings of facts which flow from that, the Tribunal finds that there was an agreement between the claimant and the respondent that the claimant could purchase  
25 certain items of PPE for which he would be reimbursed. There was, therefore, a contract between the parties to this effect.
21. The respondent has breached this contract by failing to reimburse the claimant for these purchases. The claimant is entitled to compensation for this breach of contract equal to the sums which should have been reimbursed.

22. Based on the receipts provided by the claimant, this amounts to £108.88 (one hundred and eight pounds, eighty eight pence). The Tribunal, therefore, awards the claimant compensation of this amount for breach of contract.

5

Employment Judge Peter O'Donnell  
**Employment Judge**

10

25/1/24  
**Date**

**Date sent to parties**

29/1/24

15