



EMPLOYMENT TRIBUNALS

Claimant: Ms S Bohn

Respondent: Headstart App Limited

Heard at: London South (by CVP)

On: 20 March 2024

Before: Employment Judge Emery

REPRESENTATION:

Claimant: In person

Respondent: no appearance or representation

JUDGMENT

The judgment of the Tribunal is as follows:

Wages claim

1. The complaint of unauthorised deductions from wages is well-founded. The respondent made an unauthorised deduction from the claimant's wages in the period 1 – 31 March 2023 by failing to pay her wages for the whole of March 2023.
2. The respondent shall pay the claimant **£7,916.67**, which is the gross sum deducted. The claimant is responsible for the payment of any tax or National Insurance.

Notice Pay

3. The complaint of breach of contract in relation to notice pay is well-founded.
4. The respondent shall pay the claimant **£7,916.67** as damages for breach of contract. This figure is for one month's pay. It has been calculated using gross pay to reflect the likelihood that the claimant will have to pay tax on it as Post Employment Notice Pay.

Holiday Pay

5. 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 6 days holidays accrued but not taken on the date the claimant's employment ended.
6. The respondent shall pay the claimant **£2,192.31**. The claimant is responsible for paying any tax or National Insurance.

Redundancy Payment

7. Under section 163 Employment Rights Act 1996 it is determined that the claimant is entitled to a redundancy payment of **£2,284**.

Unfair Dismissal

8. The complaint of unfair dismissal is well-founded. The claimant was unfairly dismissed.
9. There is a 100 % chance that the claimant would have been fairly dismissed in any event for the reason of redundancy by 30 April 2023.
10. The respondent shall pay the claimant the following sums:
 - (a) A basic award of zero (an award for a redundancy payment has been made).
 - (b) A compensatory award of **£5,276.67**.

TOTAL AWARD:

£25,586.32

REASONS

1. The respondent was not in attendance. I noted the order of EJ Evans dated 29 November 2023. This consolidated the above claims, and noted that the name of the respondent was incorrect on the ET1s.
2. I note that a '2.6 Notice of a claim' letter was sent with the Order and the ET1 claims to the respondent at its correct registered office on 29 November 2023. The claims have not been responded to.
3. The claimant informed me that she had sent emails to the respondent at email addresses of Ron Bienvenu and of Nicholas Shekerdeman. She forwarded copies of emails sent to both, and I noted their email addresses. The claimant confirmed that she had sent tribunal information to these email address, I noted

correspondence with Mr Shekerdemian, including references to the souring relationship with Mr Beinvenu and his company (Silverback Inc).

4. The claimant also said that she is aware of one former colleague with whom the respondent has similarly not engaged with in the tribunal process.
5. In a short break the claimant sent to the Tribunal documents which show (i) her emails to the company about the claim and the case management steps; (ii) the use of the same email address when she was working at the company.
6. I noted that the documents show:
 - a. 26 April 2023: This is an email seeking an update on unpaid salaries which are two month's late;
 - b. emails addresses being turned off because payment was being declined.
 - c. The 'silverback' email address being used on 27 July 2023
 - d. Mr Shekerdemian's email address being used by the claimant relating to the tribunal claims.
7. I was therefore satisfied that the tribunal has sent the papers to the appropriate address of the company, and that the claimant had been engaging with the company at a live company email address of a company director in order to progress the claim. The respondent has it appears chosen not to respond.

The unlawful deduction from wages claim – March 2023 wages

8. The claimant stated that she was working until April 2023. She was not told that her employment ended, but she was not paid, and there was no one working for customers. The official end of her role was end March 2023, but in April and May 2023 she was responding to texts and WhatsApp messages.
9. The claimant was last paid at end February 2023, for that month. She was not paid March 2023. The accountants filed a payslip for March, and the claimant was told she would be paid, but in fact this was not paid – evidenced by the fact the funds did not reach her bank account.
10. She says that in a Zoom call on 31 March 2023 she told her employer that she and colleagues were not going to work unless they were paid. They were told the company "... could not pay right now... and so we stopped working".
11. The pay owed:

Gross wages March 2023 - **£7,916.67** (see March 2023 wage slip).

Notice pay

11. I accept that the claimant resigned, or was dismissed, on 31 March 2023, in response to the failure to pay her March wages and no indication of when they would be paid.

12. The claimant's employment contract specifies an entitlement to one month's notice pay (clause 11.2). I awarded one month's pay in lieu of notice, **£7,916.67**.

Holiday pay entitlement

13. The claimant is entitled to 24 days annual leave, plus bank holidays. Her contract entitles her to prorated contractual annual leave entitlement on termination of employment.
14. The claimant is owed for entitlement for January – March 2024 – 6 days - **£2,192.31**.

Unfair dismissal compensation

15. I accept that the claimant tried hard to look for work, and took several months to get a job. However, I also considered the likelihood of what would have happened to the claimant had she remained in employment. In all likelihood, as she accepts, her role would have come to an end on grounds of redundancy.
16. The issue is that the respondent did not inform the claimant or her colleagues that it had no money to pay her, and it expected her to carry on working to the end of March 2023 with no expectation that it could pay her.
17. In this situation there was a need to make redundancies. I accept that a redundancy process, commencing early April, would have been complete by the end of April. It would have taken this length of time because the claimant would have been seeking pay for March, her notice pay and a redundancy payment, and noting the lack of communication at the time, I concluded that conducting a process and getting agreement for all sums due would have taken to end April. One month's net pay awarded - **5,276.67**

Redundancy payment

18. The claimant was aged 33 at date of redundancy and had 4 years employment (start date October 2018). £571 x 4 - **£2,284**

**Employment Judge Emery
29 April 2024**

Note

Reasons for the judgment were given orally at the hearing. Written reasons will not be provided unless a party asked for them at the hearing or a party makes a written request within 14 days of the sending of this written record of the decision.

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