



EMPLOYMENT TRIBUNALS

Claimant: Ms P Reynolds

Respondent: La Perla Beauty (UK) Limited

Heard at: London Central (by CVP)

On: 17 April 2024

Before: Employment Judge Emery

REPRESENTATION:

Claimant: In person

Respondent: no attendance

JUDGMENT

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 September 2023 to 11 January 2024.
2. The respondent shall pay the claimant **£51,275**, which is the gross sum deducted.
3. The claimant is responsible for the payment of any tax or National Insurance.

REASONS

Preliminary issue – the respondent's non-attendance

1. Judgment and reasons were given at the hearing. The respondent was not present and was not represented. I note from the correspondence on file that the

respondent wrote to the Tribunal stating that it was aware of the hearing date but had not received the claim form. The email states that the hearing was listed at the same time as the case of Connor v La Perla Beauty (UK) Limited. This is right, as the cases were listed to be heard together.

2. In the *Connor* case, the respondent has written a very similar email to the tribunal, pointing out the hearing of that case is listed at the same time as this. The email states that the respondent had not received that claim form.
3. On the respondent's case, two ET1s have been sent to its offices on different dates, and it has not received these claims. It became aware claims had been made when it received the notice of hearing. Despite having notice of the hearing, the respondent did not attend the hearing or otherwise write in seeking a postponement.
4. In determining to proceed with the hearing, I noted the following. It is not disputed by the respondent in its emails to the claimant that she has not been paid. Many staff were experiencing the same, as Ms. Connor also confirmed. The emails reference the reasons why.
5. Any further delay, to enquire whether the respondent received the claim, the reasons why it has not defended the claim, the reasons why it decided not to attend the hearing or otherwise seek a postponement, etc., will cause significant prejudice to the claimant, and to Ms. Connor. Both are awaiting payment for wages all agree is due to them.
6. There can be little prejudice to the respondent. It is difficult to see how the respondent can have any prospects of succeeding in a defence to the claim.
7. If there are errors in the judgment, the respondent is urged to address this by way of an application for a review of this judgment, rather than the inevitable delays an appeal will cause.

The Issues

8. The claimant alleges she is owed all her wages from 1 September 2023 to the date of claim. Her schedule of loss references unpaid expenses and employer pension contributions.

The evidence

9. The claimant's evidence was that for most of her employment she was not paid on time, usually a few days late. This affected the majority of the respondent's employees. The delays started getting lengthier and by Summer 2023 the claimant's pay was two months in arrears.

10. The claimant's evidence which I accepted was that the CEO Peter Shaefer CEO, and Lisa Jackson CCO were advising staff that there were cashflow difficulties but asking them to 'hold on' as they would be paid.
11. In 2023 salary was paid later and later. The claimant was not paid for May, then received two month's salary in June. Her last salary was paid in September payroll – this was for her wages to 31 August 2023. She has not been paid any salary from 1 September 2023 to the date of her claim – 11 January 2024, or to the date of this hearing.
12. The claimant remains employed by and working for the respondent, she has been told that things will improve. She described the significant negative effect that non-payment of salary has had on her health and wellbeing – I accepted all this evidence.
13. The claimant's monthly salary before deductions is £11,375 per month. Her employer's pension contributions are £568.75 per month.
14. The claimant also claims the following: expenses paid by her on behalf of the company but not paid back by the respondent in April 2023, June and December 2023. She also claims a sum for unpaid expenses in April 2024.

The law

15. Employment rights Act 1996 s.13— Right not to suffer unauthorised deductions

(1) An employer shall not make a deduction from wages of a worker employed by him unless—

(a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or

(b) the worker has previously signified in writing his agreement or consent to the making of the deduction.

...

(3) Where the total amount of wages paid on any occasion by an employer to a worker employed by him is less than the total amount of the wages properly payable by him to the worker on that occasion (after deductions), the amount of the deficiency shall be treated for the purposes of this Part as a deduction made by the employer from the worker's wages on that occasion.

16. s.27.— Meaning of "wages" etc.

(1) In this Part “wages”, in relation to a worker, means any sums payable to the worker in connection with his employment, including—

(a) any fee, bonus, commission, holiday pay or other emolument referable to his employment, whether payable under his contract or otherwise,

...

but excluding any payments within subsection (2).

(2) Those payments are—

...

(b) any payment in respect of expenses incurred by the worker in carrying out his employment

...

17. Somerset County Council v Chambers (UKEAT/0417/12): employer’s pension contributions are not wages for the purposes of s.13 ERA.
18. Walters t/a Rosewood v Barik UKEAT/0053/16: Employment tribunals are entitled to make any award gross, and it is for the claimant to account to HMRC for tax due.

Conclusions on the law and the evidence

19. It is without question that the claimant is owed wages for the period of this claim – from 1 September 2023 to 11 January 2024.
20. The claimant is also owed wages for the period from 12 January to 17 April 2024, however this Tribunal has not got jurisdiction to make an award for sums post-dating the date of the claim.
21. As the legislation makes clear, I cannot make an award for expenses – this is a sum more properly claimed in the employment tribunal as a breach of contract claim at the end of employment, or in another jurisdiction. I cannot make an award for employer’s unpaid pension contributions.
22. I would comment as follows: the claimant has shown the respondent great loyalty in working for it for six months without pay. A repeat claim for unlawful deduction of wages from January 2024 onwards would almost certainly succeed, if remaining unpaid. It is to be hoped that the respondent will take pro-active steps to meet its obligations to pay the claimant wages due to her.
23. I award the claimant the following sums, unlawfully deducted from her wages:
 - a. September 2023 – gross wage: £11,375
 - b. October 2023 – gross wage: £11,375
 - c. November 2023 – gross wage: £11,375
 - d. December 2023 – gross wage: £11,375

e. 1 – 11 January 2024 – gross wage: £ 5,775

TOTAL: £51,275

**Employment Judge Emery
21 May 2024**

Judgment sent to the parties on:

31 May 2024

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For the Tribunal:

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