





<b>Claimant</b>	Mr S Di Emidio
<b>Represented by</b>	In person
<b>Respondent</b>	Gemlake Ltd t/a Al Duca (in voluntary liquidation)
<b>Represented by</b>	Did not appear and was not represented

## **REASONS**

1 The Respondent informed the Tribunal on 24 May 2024 that it was in voluntary liquidation and would not attend nor be represented at today's hearing.

2 The Claimant brings a claim for unpaid residue of his wages for December 2023 in the sum of £800.00.

### **Facts:**

3 The Claimant worked for the Respondent as restaurant manager from 17 January 2022 until 10 January 2024. On 10 December 2023 he gave one month's notice. He received a December 2023 payslip dated 5 January 2024 showing gross pay of £2,050.73 and net pay of £1,715.00. However, he received no pay on the due pay-date; 4 January 2024.

2 On 16 January 2024 he received a second payslip, also dated 5 January 2024, showing gross taxable pay of £900.40 and he was actually paid £915.00 on 31 January 2024. The covering email stated that his holidays had originally been 'incorrectly processed' and this was now recalculated. 'Holidays' in this context means his non-working shifts per week.

6 The Claimant gave evidence on oath and the Tribunal had before it today; The Claimant's payslips and bank statements and the Respondent's original excel spreadsheet for December 2023, showing all staff shifts worked and not worked and the total money owed to each. Also, a more limited spreadsheet relating only to the Claimant, purporting to show 'holiday' correction figures over about a year, which had been attached to the Respondent's second payslip email.

7 The Claimant stated that the first and original, payslip was, as always, done by the accountant and payroll company, with the approval of

management, it showed his normal average earnings and was accurate. It was also entirely consistent with the all-staff excel spreadsheet for December 2023, whereas the second payslip was not correct and was not explicable. He said that he worked the same average number of shifts each month and that December, pre-Christmas, was even busier than his average month.

Conclusions:

8 It was not possible to understand from the second payslip, with attached more limited spreadsheet, the basis upon which the Respondent contended that the Claimant's 'holiday' shifts had been incorrectly calculated over a period of time and required revision. No specific dates or details were given.

7 The Tribunal was satisfied, on a balance of probabilities, on all the evidence before it, that the Claimant was properly entitled to the net sum stated on the original payslip and was therefore owed the difference between £1,715.00 and the £915.00 which he had been paid, namely £800.00.

---

**Employment Judge A Stewart**

Date 13 June 2024

---

Judgment sent to the parties on

19 June 2024

.....  
FOR THE TRIBUNAL OFFICE

---