



EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case No: 8000273/2024

Hearing held by CVP on 21 May 2024

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Employment Judge I McFatridge

Mr J Fox

**Claimant
In person**

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Chedstow (Falkirk) Ltd

**Respondent
Not present or
represented**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The respondent unlawfully withheld wages from the claimant in the sum of One Hundred and Twenty Two Pounds and Twenty Four Pence (£122.24). The respondent shall pay the claimant the said sum of One Hundred and Twenty Two Pounds and Twenty Four Pence (£122.24).

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E.T. Z4 (WR)

REASONS

1. The claimant submitted a claim to the Tribunal in which he claimed that the respondent had unlawfully withheld wages from him. The respondent submitted a response in which they indicated that the claimant had been paid in full. A hearing was fixed. At the time and place fixed for the hearing the claimant was logged in and ready to proceed. There was no appearance by or on behalf of the respondent. The respondent had not provided a contact telephone number in their ET3 response. In the circumstances I waited until 11.10am and then commenced the hearing. During the course of the hearing the clerk passed on to me an email which had been received from Andrew Drummond the Company Secretary of the respondent advising that the respondent had gone into creditors voluntary liquidation on 17 April 2024. Given that I had already commenced the hearing I decided it was appropriate to proceed to a conclusion. I put the claimant on oath and he gave oral evidence supplemented by reference to various productions which he had lodged a few days previously. On the basis of the evidence and the productions I found the following matters proved.

Findings in fact

2. The claimant commenced working for the respondent at a licensed establishment known as The Inchcolm Inn, South Queensferry on or about 21 July 2023. He was employed as a bar person. He was due to be paid on an hourly basis at the rate set out in the National Minimum Wage which at the relevant time was £10.42 per hour. He worked variable hours. The claimant was paid his pay for the week ending 29 October 2023. This payslip was lodged. Subsequent to this the claimant worked for one hour on 30 October 2023 and for ten and three quarter hours on 1 November 2023. Reference is made to various text messages between the claimant and his manager Oscar Lubinski during the course of both of these shifts.
3. On 2 November Oscar Lubinski sent the claimant a text message to indicate that the owners had closed the Inchcolm. He was assured that he would be paid the outstanding monies due to him. Despite contacting Mr Lubinski on several occasions the claimant did not receive payment.

The claimant then contacted an individual named Craig Clapperton who he had been advised was the Area Manager of the respondent. Mr Clapperton managed another pub belonging to the respondent known as The Tally Ho. After numerous contacts Mr Clapperton indicated that he was not in a position to deal with the claimant's claim for outstanding pay. As at the date of the hearing the claimant had still not received payment of the £122.24 which he was due.

Discussion and decision

4. The claimant gave his evidence in a straightforward and patently honest manner. His oral evidence was backed up by the written documents which he provided showing that he had indeed worked these shifts on 30 October and 1 November. The claimant is entitled to a declaration that the respondent unlawfully withheld wages from him and to an order for payment of the said sum of £122.24.
5. As the respondent appears to be in voluntary liquidation this does not have any affect on the claim however in the circumstances I will order the clerk to send a copy of the judgment to the liquidator at the address given as well as to the respondent at their registered address. I have made the order on the basis of gross pay since given the amount involved it appears unlikely the claimant would be liable for tax or national insurance.

Employment Judge I McFatridge

Employment Judge

22 May 2024

Date of Judgment

Date sent to parties

22/05/2024