



# EMPLOYMENT TRIBUNALS

**BETWEEN**

**Claimant**  
Mr Lewis Pearman

AND

**Respondent**  
Car-Wizard Limited

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

**HELD REMOTELY**  
**By Cloud Video Platform (CVP)**

**ON**

19 June 2024

**EMPLOYMENT JUDGE** N J Roper

### Representation

**For the Claimant:** In person  
**For the Respondent:** Ms C Stevens, HR

### JUDGMENT

**The judgment of the tribunal is that the claimant's claim for unlawful deduction from wages is well-founded, and the respondent is ordered to pay the claimant the gross sum of £3,806.70.**

### RESERVED REASONS

1. In this case the claimant Mr Lewis Pearman brings a monetary claim for unlawful deduction from wages against his ex-employer Car-Wizard Limited. The respondent denies the claims.
2. This has been a remote hearing which has been consented to by the parties. The form of remote hearing was by CVP Video. A face-to-face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing. The documents to which I was referred are in a bundle provided by the parties, the contents of which I have recorded.
3. I have heard from the claimant. Ms Stevens represented the respondent, but she had not prepared a statement and did not give evidence. I was asked to consider a statement from Mr Oliver Birrel on behalf of the respondent, but I can only attach limited weight to this because he was not here to be questioned on this evidence.
4. There was a degree of conflict on the evidence. I found the following facts proven on the balance of probabilities after considering the whole of the evidence, both oral and

documentary, and after listening to the factual and legal submissions made by and on behalf of the respective parties.

5. The Facts:
6. The respondent is Car-Wizard Limited, which is a company which specialises in mobile car repairs and improvements, and which is based in Bristol. Mr Oliver Birrell is the proprietor of the respondent company, and refers to himself as Chief Wizard. The claimant Mr Lewis Pearman was employed at as a mobile smart repair technician from 14 February 2023 until 24 July 2023. The respondent asserts that it terminated the claimant's employment at the end of his probationary period because of failure to look after the company van which he was using, and for poor workmanship and repeated customer complaints.
7. This claim relates to deductions made from the claimant's final salary which are recorded on the claimant's final payslip dated 31 July 2023. The gross sum due to the claimant was £6,419.25. The respondent made the normal PAYE tax and national insurance deductions as it was required to do of £1,228.26 and £421.52 respectively. The respondent also made "voluntary deductions" amounting to £3,806.70. This is the sum which the claimant asserts was unlawfully deducted from his wages. His net pay for that month was thus reduced to £962.77.
8. The respondent relies on the terms of a service agreement between the respondent and the claimant. This document provides that remuneration was £23,400 gross per year as basic pay, together with 15% commission of monthly turnover. Clause 13 of that document refers to "Van Maintenance and Usage", and clause 13.1 provides: "Car-Wizard reserves the right to request an inspection of your vehicle at any time. In certain circumstances, Car-Wizard may request any damages to the vehicle to be carried out by the employee. All damages and faults must be reported to Chief Wizard. Any costs for replacement parts or damages that require other services beyond our expertise will be deducted from the employee's pay."
9. The respondent explains that the deductions made were calculated as follows. In the first place the claimant left the company van overnight on double yellow lines on a tight bend and the vehicle was damaged, presumably by another driver. This required the respondent to purchase replacement parts totalling £989.86 (including VAT). After closer inspection additional repairs were required totalling a further £1,980 including VAT. The total van repairs consisting of parts and labour amounted to £2,986.86, including VAT. The respondent says that it arranged for a comparison quote from Audatex (which amounted to a higher figure of £4,822.30) and that the sum deducted for the van was therefore reasonable. In addition, the respondent had negotiated the price of the repairs and parts down by reducing costs from £1,528.43 to £829.40.
10. The respondent says that a number of customers complained about the claimant's work and the amounts of the invoices for work undertaken on four such customers were £220.00, £160.00, £805.00, and £655.00, of which £505.25 was paid in commission. The respondent deducted the commission elements of these invoices. In addition, the van which the claimant had been driving needed a professional deep clean and other improvements which cost £145.00. The respondent calculated the total deductions due were £4,449.51, but nonetheless decided to limit the deductions to £3,806.70.
11. One key question is the extent to which the claimant ever agreed to the provisions of clause 13. The claimant's clear evidence is that he did not. He did not sign the service agreement.
12. The respondent's asserts that the claimant was sent the service agreement and having received it and read it, he clearly understood the terms, and accepted employment on that basis, and worked on. The claimant's evidence was that he was sent a proposed contract by Mr Birrell with an invitation to attend at the office to discuss its terms. His personal circumstances were such that he was unable to print this off, and he noted that the name of the employee was incorrect. He therefore informed Mr Birrell that the contract sent to him must be incorrect. The claimant says he expected to be called the office to discuss his own replacement contract, but as a matter of fact that never happened.
13. The respondent has adduced no documents to support its assertions in connection with the presentation of the service agreement, and Mr Birrell was not present at this hearing to give evidence on the matter. The weight of evidence is therefore against the respondent.

- On the balance of probabilities, I find that the service agreement, and particularly clause 13 of that document, were never agreed by the claimant.
14. Having established the above facts, I now apply the law.
  15. The Law:
  16. An employee has the right not to suffer unauthorised deductions from wages. Section 13 of the Employment Rights Act 1996 ("the Act") provides: "13(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."
  17. Section 13(2) of the Act provides: "In this section "relevant provision", in relation to the worker's contract, means a provision of the contract comprised – (a) in one or more written terms of the contract of which the employer has given the worker a copy on an occasion prior to the employer making the deduction in question, or (b) in one or more terms of the contract (whether express or implied and, if express, whether oral or in writing) the existence and effect, or combined effect, of which in relation to the worker the employer has notified to the worker in writing on such an occasion."
  18. Under section 23(1) of the Act a worker may present a complaint to an employment tribunal – (a) that his employer has made a deduction from his wages in contravention of section 13 ...
  19. Under section 24(1) of the Act, where a Tribunal finds a complaint under section 23 well-founded, it shall make a declaration to that effect and shall order the employer - (a) in the case of a complaint under section 23(1)(a), to pay to the worker the amount of any deduction made in contravention of section 13 ...
  20. Judgment:
  21. In my judgment, for the reasons set out above, the claimant never agreed to clause 13 of the proposed service agreement, which is the document upon which the respondent relies. For that reason, the deduction made from the claimant's final salary was unauthorised. His claim is well-founded, and I order the respondent to pay the claimant the gross sum of £3,806.70.

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Employment Judge N J Roper  
Dated 19 June 2024

Judgment sent to Parties on  
11<sup>th</sup> July 2024

For the Employment Tribunal