



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms Maria Da Silva

**Respondent:** CloudSource Ltd

**Heard at:** London Central (by CVP)

**On:** 3 March 2025

**Before:** Employment Judge L Sarkis

## REPRESENTATION:

**Claimant:** In person

**Respondent:** Ms Susannah Williams, Chief Operations Officer

# JUDGMENT

*Oral judgment was given at the conclusion of the hearing on 3 March 2025 and written reasons were requested.*

The judgment of the Tribunal is as follows:

1. The complaint of unauthorised deductions from wages contrary to Part II of the Employment Rights Act in respect of holiday pay for the dates 3, 4, 5 and 6 September 2024 is not well founded and is dismissed.
2. The complaint of unauthorised deductions from wages contrary to Part II of the Employment Rights Act in respect of holiday pay for the dates 9, 10, 11, 12, 13, 16, 17, 18, 19 and 20 September 2024 is well founded and succeeds.
3. The complaint of unauthorised deduction from wages in respect of the cost of the access pass and portable monitor is not well founded and is dismissed;

4. The complaint of unauthorised deduction from wages in respect of the cost of the kensington dock and headset is well founded and succeeds.
5. The respondent shall pay the claimant **£2179.86**, which is the gross sum unlawfully deducted. The claimant is responsible for the payment of any tax or National Insurance.

## REASONS

### Facts which are not in dispute

1. The claimant was employed as a junior project manager for the respondent company. Her gross monthly salary was £4,166.67 and her holiday entitlement was 33 days to include 8 UK bank holidays. The claimant handed in her resignation on 14 August 2024. Her notice period was 3 months.
2. Between 3 and 6 September 2024 the claimant was in France. The respondent asked her to use these days as annual leave as she was not permitted to work from abroad.
3. Between 9 and 20 September 2024 the respondent asked the claimant to remain on annual leave.
4. By letter of 20 September 2024 the respondent informed the claimant that she was not required to work the remainder of her notice period but that she would be paid a sum in lieu of the reminder of her notice.
5. That letter set out that 20 days of annual leave had accrued and that the claimant had taken 20.5 days including the 14 days between 3 – 20 September 2024. The letter also set out that the claimant needed to return office equipment failing which its value would be deducted from the final payment.
6. On 30 September 2024 the respondent made a net payment to the claimant of £4913.27. This encompassed the claimant's salary up to 20 September 2024 and a payment in lieu of the reminder of the notice period from 21 September to 14 November 2024.
7. The claimant disputed the payment, contesting the £509.96 that had been deducted for unreturned equipment and disputing the respondent's calculation that she had used all of her annual leave. The claimant considered she was due

a payment for 14 days of annual leave which she says she had accrued and did not choose to use between 3 and 20 September 2024.

8. On 17 December 2024 the claimant filed a claim form seeking compensation for unlawful deduction from wages.

### Findings of fact

#### *The days treated as annual leave on 3, 4, 5 and 6 September 2024*

9. From 30 August 2024 to 6 September 2024 the claimant travelled to France to support her mother and sister who were unwell. The claimant did not request annual leave for this period and did not seek authorisation from the respondent to work from abroad.
10. The respondent's hybrid working policy sets out that working from outside the UK is not permitted. I found that the claimant was aware of this and was also aware that there had not been an agreement for her to work from abroad for that period.
11. On 3 September 2024 the respondent became aware that the claimant was in France and required her to use annual leave for the rest of that week – this equated to four days on 3, 4, 5 and 6 September 2024. The claimant remained in France and did not work for those days.

#### *The days treated as annual leave on 9-20 September 2024*

12. The respondent required the claimant to use 10 further days as annual leave between 9 – 20 September 2024. During these days, the respondent informed the claimant that she was not able to work despite her being in the UK and willing to work. The reason given by the respondent for the period up to 16 September 2024 was that the claimant had to await an HR meeting initially scheduled for 9 September 2024 and then rearranged for 16 September.
13. The claimant's employment contract sets out at paragraph 7.4 (emphasis added):

*“If, on termination of employment:*

*7.4.1 you have exceeded your prorated holiday entitlement, the Company will deduct a payment in lieu of days holiday taken more than your prorated holiday entitlement, based on 2.08 days per month (25 ÷ 12), and you authorise the Company to make a deduction from the payment of any final salary.*

***7.4.2 you have holiday entitlement still owing, the Company may, at its discretion, require you to take your holiday during your notice period or make a payment in lieu of untaken holiday entitlement, and will use the above calculation to determine this.”***

14. On Sunday 8 March 2024, the respondent informed the claimant that she would be required to take 9 – 13 September 2024 as annual leave. On Monday 16 September 2024, the respondent informed the claimant that she would be required to take 16-20 September 2024 as annual leave.
15. Section 15 of the Working Time Regulations 1998 sets out that where an employer requires an employee to take leave, the period of notice which must be given is a period of “twice as many days in advance of the earliest day specified in the notice as the number of days or part-days to which the notice relates”.
16. The respondent should therefore have given the claimant 10 days’ notice of the 5 day period of leave it required her to take between 9 and 13 September 2024 and 10 days’ notice of the 5 day period between 16 and 20 September 2024. The respondent did not give any notice of the required leave.

*The claim as regards the deduction for unreturned office supplies*

17. It is not in dispute that the claimant was provided with some equipment to enable her to do her job including a laptop and a portable monitor. She also had an access pass. The respondent’s case was that the claimant also had a headset and a Kensington dock.
18. By letter of 20 September 2024 the respondent informed the claimant that she needed to return company property by 24 September 2024 and that failing to do so could result in the respondent deducting the corresponding amount from her final payment. The respondent then deducted a sum of £509.96 for these items.
19. The claimant accepted that she did not return her access pass or portable monitor and set out in evidence that she did not return these items as she had been told she should not come back to the office. I found on the balance of probabilities that the claimant knew she would have been permitted to go to the building in order to return the items in particular as the letter of 20 September 2024 specifically asked her to return the items.
20. The claimant set out in evidence that she had never been provided with a Kensington dock and that, though she had been provided with a headset, she had returned this item prior to handing in her leave. On the balance of probabilities after hearing evidence and there being no documentary evidence from the

respondent, I found that the claimant had not been provided with a Kensington dock and that she had already handed back the headset.

#### Unlawful deduction from wages

21. The claim for unlawful deduction from wages was made in time. The payment complained about was made on 30 September 2024 and the claim form was filed on 17 December 2024 which is within the three month time limit.
22. It was not in dispute that the claimant was an employee of the respondent and therefore had standing to bring a claim.
23. I have considered whether the claim is in fact in respect of wages and conclude that it is. "Wages" are defined in section 27 of the Employment Rights Act 1996. Section 27(1) provides that "wages" means "any sums payable to the worker in connection with his employment". The payment made to the claimant on 30 September 2024 included wages for work done in September 2024 and pay for accrued but untaken holiday entitlement falls within the definition of wages. I am therefore satisfied that the claim is in respect of wages.

#### *Accrued holiday pay*

24. I have then gone on to consider whether there was a deduction of accrued holiday pay from those wages. Section 13(3) of the Employment Rights Act provides:  
*"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."*
25. I find that the amount properly payable to the claimant in terms of accrued but untaken holiday was the amount of 8.5 accrued holiday days. In calculating this amount I have found that the 4 days the respondent required the claimant to take as annual leave between 3 – 6 September 2024 was reasonable. The claimant was abroad and did not have permission to work from abroad. The respondent's policy was clear in relation to this and requiring the claimant to take the days as annual leave was justified.

26. I find therefore that the claimant only had 10 days of annual leave which had accrued and which were not taken. This is because, as set out in my findings of fact, the respondent failed to give any notice to the claimant of the two further periods of leave it required her to take. I therefore consider that the requirement was unlawful and the days the claimant was prevented from working should not be considered as annual leave.

27. I have then considered whether the deduction was authorised. Section 13(1) ERA creates three types of authorised deduction:

- Deductions made by virtue of a statutory provision: section 13(1)(a);
- Deductions made under a “relevant provision” of the worker’s contract: section 13(1)(a);
- Deductions to which the worker has previously signified his or her agreement in writing: section 13(1)(b).

28. I have set out the relevant provision of the claimant’s contract which enables the respondent to require an employee to take accrued leave during the notice period. However, I find that the respondent was not justified in seeking to rely on this provision without providing any notice to the claimant.

29. Finally, I have considered whether the deduction was one of the limited exempt deductions within section 14 of the Employment Rights Act. It is for the Respondent to show that one of these specific circumstances arises and the Respondent did not raise any of these situations. I therefore find that the deduction was not one of the limited exempt deductions.

30. I therefore declare that the deduction of the value of 10 days of accrued annual leave was an unlawful deduction of wages. The parties agreed at the hearing that the value of a day’s leave was £192.30. The respondent must therefore pay the sum of £1923 to the claimant.

#### *Company equipment*

31. I have considered whether the deduction of £509.96 for unreturned office equipment was authorised under Section 13(1)(a) of the Employment Rights Act 1996 - deductions made under a “relevant provision” of the worker’s contract – and find that it was but only in relation to the items which I found were in the claimant’s possession and which she failed to return. These items are the access pass (£25) and the portable monitor (£233.10).

32. I found that the Kensington dock (£74.99) was not issued to the claimant and that the headset (£181.87) had been returned by the claimant.

33. I therefore declare that the deduction of £256.86 was an unlawful deduction and the respondent must pay this sum to the claimant.

Conclusion

34. I therefore find that 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 2024 - 20 September 2024. The respondent is ordered to pay to the claimant the gross sum of £2179.86.

**Employment Judge L Sarkis**  
**14 March 2025**

Judgment sent to the parties on:

17 April 2025

.....  
For the Tribunal:

.....