



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms Amanda Clare

**Respondent:** Mrs Kellie-Jay Keen

**Heard at:** By Cloud Virtual Platform on 20 June 2025

**Before:** Employment Judge Elizabeth Gibson

## Representation

**Claimant:** In person

**Respondent:** In person

# RESERVED JUDGMENT

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 1996 is well-founded. The Respondent made an

unauthorised deduction from the Claimant's pay in respect of the period 25 March and 07 April 2024 which is two weeks' wages.

2. The Respondent is ordered to pay the Claimant **£1076.92**, which is the gross sum deducted. The Claimant is responsible for the payment of any tax or National Insurance.
3. The complaint of breach of contract in relation to notice pay is well-founded.
4. The Respondent shall pay the Claimant **£538.46** as damages for breach of contract. This figure has been calculated using gross pay to reflect the likelihood that the Claimant will have to pay tax on it as Post Employment Notice Pay.
5. The complaint in respect of holiday pay is well-founded. The Respondent failed to pay the Claimant in accordance with regulation 14(2) and 16(1) of the Working Time Regulations 1998.
6. The Respondent is ordered to pay the Claimant the gross sum of **£323.10. £376.92**.
6. The Respondent failed in its duty to provide the Claimant with a written statement of employment particulars contrary to section 1 of the Employment Rights Act 1996.
7. Pursuant to section 38 of the Employment Rights Act 1996 the Respondent is ordered to pay the Claimant the sum of **£1076.92** being two weeks' gross pay.
8. The Respondent must pay the Claimant the sum of **£3069.20** in total.

## REASONS

### Introduction

1. By way of background, the Claimant worked for the Respondent in the run-up to the 2024 local elections. She was employed for a few weeks by the Respondent who is the leader of a political party called the Party of Women.

2. Ms Clare was employed to assist candidates in their campaigns for election as councillors to a number of local authorities.
3. Initially the relationship between Mrs Keen and Ms Clare was positive but it deteriorated quickly which resulted in the Claimant's dismissal on 06 May 2025.
4. The Claimant brought complaints of:
  - 4.1 Unauthorised deduction from wages contrary to s13(1) of the Employment Rights Act 1996 (the "EPA 1996");
  - 4.2 Breach of Contract for failure to pay her notice pay contrary to s86 of the EPA 1996, also known as wrongful dismissal;
  - 4.3 Failure to pay holiday pursuant to Regulation 16(1) of the Working Time Regulations 1998 (the "WTR 1998"); and
  - 4.4 Failure by the Respondent to provide her with a written statement of employment particulars contrary to s1 of the ERA 1996.
5. The Respondent denied the entirety of the Claimant's complaints.
6. The hearing of the Claimant's complaints took place on 20 June 2025 on a Cloud Video Platform. Neither party was represented

### **Procedure and Evidence**

7. The Claimant gave evidence herself and called a further three witnesses, Charlotte Hawkins and Sally James who were both candidates for election and Simon Boone, Ms Clare's partner. The Respondent gave evidence herself and did not call any further witnesses.
8. There was a large degree of dispute between the parties in respect of a bundle of documentary evidence. However many of these disputes were not relevant to the issues I had to decide.
9. The parties produced a bundle of documents consisting of 49 pages of documentary evidence along with their witness statements and the witness

statements of Ms Hawkins, Ms James and Mr Boone. Page numbers referenced in these reasons are the page numbers in the bundle.

### **Issues**

10. I discussed the substantive issues which needed to be decided with the parties at the start of the hearing.

11. I explained that much of the documentary evidence was not relevant to the issues surrounding the Claimant's complaints. I said that the key factual issues between the parties centered around:

11.1 The date the Claimant started working for the Respondent;

11.2 How many days a week the Claimant worked; and

11.3 How much the Claimant was entitled to receive in wages in the light of the fact there was no formal or particularised employment contract between them.

12. In light of this both parties helpfully agreed their oral evidence and that of their witnesses should be confined to these factual issues.

13. I set out below the legal issues in respect of the Claimant's complaints:

#### **Unauthorised Deduction in Wages**

13.1 Were the wages paid to the Claimant on less than the wages she should have been paid?

13.2 Was any deduction required or authorised by statute?

13.3 Was any deduction required or authorised by a written term of the contract?

13.4 Did the Claimant have a copy of the contract or written notice of the contract term before the deduction was made?

13.5 Did the Claimant agree in writing to the deduction before it was made?

13.6 How much is the Claimant owed if any?

**Breach of Contract – Wrongful Dismissal**

13.7 What was the Claimant's notice period?

13.8 Was the Claimant paid for that notice period?

**Holiday Pay (Working Time Regulations 1998)**

13.9 Did the Respondent fail to pay the Claimant for annual leave the Claimant had accrued but had not taken when her employment ended?

13.10 How much of the leave year had passed when the Claimant's employment ended on 6 May 2024?

13.11 How much leave had accrued for the year by that date?

13.12 How much paid leave had the Claimant taken in the year?

13.13 How many days remain unpaid?

13.14 What is the relevant daily rate of pay?

**Failure to Provide Written Statement of Employment Particulars**

13.15 When these proceedings were begun, was the Respondent in breach of its duty to give the Claimant a written statement of employment particulars?

13.16 If the claim succeeds, are there exceptional circumstances that would make it unjust or inequitable to make the minimum award of two weeks' pay under section 38 of the Employment Act 2002? If not, the Tribunal must award two week's pay and may award four week's pay.

13.17 Would it be just and equitable to award four week's pay?

13.18

**Evidence and Findings of Fact in Respect of Liability**

14. There was substantial conflict between the parties on the evidence. I considered the whole of the evidence including the documentary evidence in the bundle of documents as well as the witness statements and the oral evidence from the Claimant and her witnesses and the Respondent. I also listened to the submissions made by both parties.

15. Where I have had to resolve any conflict of evidence this is referred in these reasons.

Unauthorised Deduction in Wages

16. The Claimant claimed she started her employment with the Respondent on 24 March 2024. The Respondent refuted this and said the start date was 08 April 2024.

17. I find that the Claimant's start date for her employment as campaigns director was 25 March 2024.

18. The reasons for this finding are:

18.1 The Claimant in her witness statement accepted she received a formal job offer (by text message from the Respondent) on 24 March 2024 which she accepted;

18.2 She said prior to this date she had undertaken unpaid work for the Respondent;

18.3 Two of the Claimant's witnesses were not sure about the Claimant's actual start date but said Ms Clare had been assisting them with their election campaigns in late March 2024;

18.4 Ms Hawkins said it was late March 2024 but she did not recall the exact date; and Ms James said it was categorically on or before 29 March 2024;

18.5 Mr Boone said the date was 24 March 2024 and that there had been discussions between the Claimant and the Respondent prior to this date about her role;

18.6 Although the Respondent said she had offered the Claimant a salaried post as campaigns director on 24 March 2024 and this offer was accepted,

the agreed start date was 08 April 2024, this statement was not corroborated by the documentary evidence;

18.7 Two text messages from the Respondent to the Claimant (at page 5 of the bundle) were highly persuasive evidence:

i. The first timed at 18.32 read, "*£28k it is. Feel free to use Campaigns Director as your new title tonight xxx*";

ii. The second timed at 20.28 read, "*I'll get a proper contract over asap. Congratulations and welcome to your new role!!*";

18.8 The documentary evidence the Respondent relied upon was not credible in respect of an employment start date of 08 April 2024. I preferred the Claimant's and her witnesses' evidence in this respect because it was consistent with the relevant documentary evidence;

18.9 In coming to this conclusion, I took account of the emails and text messages between the parties about the Claimant's role, duties and terms and conditions of employment but determined these were more relevant to my findings in respect of the Claimant's other complaints; and

18.10 Given the timing of the text messages was on the evening of Sunday 24 March 2024, I determined that Ms Clare's start date was the next working day, Monday 25 March 2024.

19. Given this finding I calculate that the Claimant was entitled to wages for the period 25 March to 6 May 2024, which is six weeks and one day.

How Many Days a Week was the Claimant Obligated to Work?

20. The Claimant claimed she was required to work for seven days a week given the nature of her role as campaign director for the Party of Women.

21. She asserted she was therefore entitled to be paid on the basis of a seven-day week.

22. The Respondent refuted this and said she employed the Claimant for five days a week (Monday to Friday) on an annual salary of £28,000.

23. There was no employment contract between the parties and therefore I had to consider the documentary evidence and witness statements of the Claimant and the Respondent to ascertain the nature and extent of the written and verbal contractual arrangements between them.
24. To this end I find that the Claimant was employed by the Respondent on an annual salary of £28,000 and this meant whether she worked for five or seven days a week was a matter for her.
25. The reasons for me making this finding are that:
- 25.1 There was no evidence that the Claimant was employed on an hourly or daily rate;
  - 25.2 In her witness statement, the Claimant said her "*agreed per annual sum was £28,000.*" and she agreed under cross examination that she and the Respondent had verbally agreed an annual salary of £28,000 prior to the text messages detailed in paragraph 18.7 above;
  - 25.3 The Respondent's evidence was clear and consistent that Ms Clare was a salaried employee.

Breach of Contract – Wrongful Dismissal

26. The parties agreed the Claimant's employment ended on 06 April 2024, neither party provided any evidence in respect of notice periods or payment in lieu of notice.
27. The Respondent paid the Claimant £2,350 for the period of Ms Clare's employment. This figure was not particularised.
28. Mrs Keen said: "*I divided £28,000 by 52 and she was paid for four weeks at that rate. I thought that would be the end of the matter.*"
29. I find in relation to notice pay that given the lack of a formal contract of employment, no written or oral evidence and the lack of specificity in the Respondent's calculation of the Claimant's pay, that Ms Clare was neither given notice of her dismissal nor was she paid anything in lieu of notice.

Holiday Pay (Working Time Regulations 1998)



30. There was no evidence that the Claimant took any holiday while she was employed by the Respondent. This question was not specifically addressed in any of the evidence before me.

31. I therefore find that the Claimant is entitled to be paid for holiday accrued but not taken during her employment by the Respondent.

Failure to Provide Written Statement of Employment Particulars

32. The parties accepted there was no single document which set out for the Claimant a written statement of her employment particulars.

33. The Respondent claimed various text communications dated 21 March, 24 March 2024, 01 April 2024 set out at pages 2, 4 and 6 of the bundle amounted to the satisfaction of her obligations to provide such written statement under s1 of the ERA 1996.

34. She said in any event the Claimant had worked for her for less than a calendar month and this coupled with the Claimant's failure to request formal clarification and *"the partial but effective compliance through the text exchange constitute substantial compliance."*

35. Prior to the parties' final submissions, I asked the Respondent to check what her responsibilities were in relation to employment particulars as set out in sections 1 and 2 of the ERA 1996. She did not address me further on this question.

36. I find that at the time these proceedings were commenced the Respondent did not supply the Claimant with a written statement of employment particulars in accordance with s1 of the ERA 1996. The Respondent's assertions simply did not satisfy the requirements of s1 of the ERA 1996.

**Applicable Law in respect of Liability and Remedy**

Unauthorised Deductions in Wages

37. The right not to suffer an unauthorised deduction from wages is set out in Part II of the ERA 1996. Wages are defined widely in s27 of the ERA 1996 and means *"in relation to a worker ...any sums payable to the worker in connection with his employment..."*

38. Section 13(1) of the ERA 1996 provides:

*"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."*

39. Section 13(3) of the ERA 1996 states that a deduction occurs when 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 wages properly payable by him to the worker..."*

40. The remedy for an unauthorised deduction in wages is for the employer to pay the employee any such unauthorised deductions made to his or her wages.

#### Breach of Contract – Wrongful Dismissal

41. Since the Respondent dismissed the Claimant without notice, Ms Clare also brought a complaint of wrongful dismissal. This simply means a dismissal without being paid for the contractual notice period.

42. The amount of notice to which an employee is entitled should be set out in the written statement of employment particulars which employers are required to give employees pursuant to s1 of the ERA 1996.

43. If there is no expressly agreed period of notice, there is an entitlement at common law to a "reasonable" notice of termination. This must not be less than the statutory minimum set out in s86 of the ERA 1996.

44. The minimum periods of notice under s86 of the ERA 1996 apply where a person has been continuously employed for one month or more. In respect of Ms Clare who was employed for just over six weeks this is one week's notice because her period of continuous employment was for less than two years.

45. The remedy for wrongful dismissal is therefore one week's pay.

Holiday Pay (WTR 1998)

46. Workers' hours and their entitlement to paid holiday are subject to statutory regulation under the WTR 1998.
47. The WTR 1998 provide workers with a minimum entitlement to leave. The minimum entitlement, subject to certain exceptions which are not relevant to these reasons, 5.6 weeks paid holiday per year subject to a cap of 28 days.
48. Twenty-eight days correspond to 5.6 weeks for a worker working five days per week, and the statutory minimum remains capped at 28 days.
49. Holiday pay claims may arise in a number of circumstances, including those of Ms Clare, where a worker has left his or her employment without having taken leave to which he or she was entitled and seeks pay in lieu of that holiday.
50. Claims for unpaid statutory holiday may be made under Regulation 30 of the WTR 1998. Regulation 16(1) of the WTR 1998 provides that:

*"A worker is entitled to be paid in respect of any period of annual leave to which he is entitled under regulation 13 at the rate of a week's pay in respect of each week of leave."*

51. Where no weeks can be taken into account (because for example, as in Ms Clare's case, the worker was at the beginning of her employment), the amount payable is the amount which fairly represents a week's pay having regard to the considerations specified in s228(3) of the ERA 1996.
52. Holiday pay is included in the definition of "wages" for the purposes of Part II of the ERA 1996 and so any failure to pay holiday pay is not only a breach of the WTR 1998 but is also an unauthorised deduction in wages as described above.

Failure to Provide Written Statement of Employment Particulars

53. The Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018 amended sections 1 to 7B of the ERA 1996. The amendments which came into effect in April 2020 had the effect of making the right to a written statement of employment particulars a "Day One" right for all workers and added additional contents to the written statement.

54. This means that:

54.1 Workers are entitled to receive the "principal statement" of the written statement no later than their first day on their new job (before April 2020 the employer had two months in which to provide the written statement); and

54.2 There is no qualifying period of employment (before April 2020 employees were entitled to a written statement only if their employment had continued for at least a month).

55. An employee may bring a claim to the Tribunal alleging his or her employer has not complied with these obligations under s11(1) of the ERA 1996.

56. The remedies for such a claim include where when the proceedings were brought, the employer was in breach of the duty to provide a written statement the Tribunal will make an award of two week's pay unless it would not be just and equitable to do so and may if it considers just and equitable in all the circumstances make an award of four week's pay. This is set out in s38 (1) to (5) of the Employment Act 2002.

### **Further Findings Conclusions and Remedies**

#### Unauthorised Deduction in Wages

57. In light of my findings, I answer the questions set out in paragraph 13 (above) as follows:

57.1 Were the wages paid to the Claimant on less than the wages she should have been paid? - Yes

57.2 Was any deduction required or authorised by statute? - No

57.3 Was any deduction required or authorised by a written term of the contract? - No

57.4 Did the Claimant have a copy of the contract or written notice of the contract term before the deduction was made? - No

57.5 Did the Claimant agree in writing to the deduction before it was made? - No

57.6 How much is the Claimant owed if any? Wages for the period 25 March 2024 to 07 April 2024 which is two weeks' wages. Based on Ms Clare's annual salary of £28,000, a week's wage is calculated as follows:

$$28,000 \text{ divided by } 52 = £538.46$$

Therefore two week's wages is  $£538.46 \times 2 = \textbf{£1076.92}$

#### Breach of Contract – Wrongful Dismissal

58. The Claimant's notice period was one week and the Respondent did not pay Ms Clare in lieu of notice.

59. The Claimant is entitled to a week's wages in lieu notice which is **£538.46**

#### Holiday Pay (WTR 1998)

60. In light of my findings, I answer the questions set out in paragraph 13 (above) as follows:

60.1 Did the Respondent fail to pay the Claimant for annual leave the Claimant had accrued but had not taken when her employment ended? - Yes

60.2 How much of the leave year had passed when the Claimant's employment ended on 6 May 2024? As there was no written contract of employment the Claimant's leave year commenced on her start date of 25 March 25 (Regulation 16 of the WTR 1998) which means six weeks and one day of her leave year had passed when her employment ended.

60.3 How much leave had accrued for the year by that date? This is calculated by reference to Regulation 14(3) of the WTR 1998 and in the Claimant's situation where there was no formal employment contract is:

*"a sum equal to the amount that would be due to the worker under regulation 16 in respect of a period of leave determined in accordance with the formula -*

$(A \times B) - C$

*where A is the period of leave to which the worker is entitled under regulation 13 and regulation 13A;*

*B is the proportion of the worker's leave which expired before the termination date, and*

*C is the period of leave taken by the worker between the start of the leave year and the termination date."*

Substituting the figures into the above formula:

$$28 \text{ days} \times (6 \text{ weeks divided by } 52 \text{ weeks}) - 0 = 3.2 \text{ days}$$

This figure of 3.2 equates to 3.5 days by virtue of Regulation 15A(3) of the WTR 1998 which provides for the rounding up of days accrued to half and full days. Where the amount of leave that has accrued includes a fraction of a day other than a half day, the fraction must be treated as a half day

- 60.4 How much paid leave had the Claimant taken in the year? - None
- 60.5 How many days remain unpaid? - 3.5 days
- 60.6 What is the relevant daily rate of pay?  $1 \text{ divided by } 5 \times 538.46 = \text{£}107.69$ .
- 60.7 Therefore the Claimant is entitled to 3.5 days' pay at £107.69 a day which is **£376.92**.

#### Failure to Provide Written Statement of Employment Particulars

- 60.8 In light of my findings when these proceedings were begun, the Respondent was in breach of its duty to give the Claimant a written statement of employment particulars?
- 60.9 There were no exceptional circumstances that would make it unjust or inequitable to make the minimum award of two week's pay under section 38 of the Employment Act 2002?
- 60.10 Given the short length of time the Claimant worked for the Respondent I determine it would not be just and equitable to award four week's pay to Ms Clare.
- 60.11 Accordingly, I award two week's pay to the Claimant which is **£1076.92**.

Approved by:  
**Employment Judge Gibson**  
**17 June 2025**

JUDGMENT SENT TO THE PARTIES ON  
31 July 2025 By Mr J McCormick

FOR THE TRIBUNAL OFFICE