



EMPLOYMENT TRIBUNALS

Claimant: FLOYD MENDOZA

Respondent: NAGAWA LTD

Heard at: London East Hearing Centre (via video)

On: 21 March 2025

Before: Employment Judge Balroop

Representation

Claimant: In person

Respondent: No Attendance

JUDGMENT

Unlawful Deduction of Wages

1. The complaint of unauthorised deductions from wages is well-founded. The Respondent made an unauthorised deduction from the Claimant's wages for September 2024.
2. The Respondent shall pay the claimant £1,893.32, which is the gross sum deducted. The Claimant is responsible for the payment of any tax or National Insurance.

Remedy

3. The Respondent must pay the Claimant the sum of **£1,893.32**

REASONS

Preliminary Issues

1. The Respondent did not attend. There is a letter dated 12 November 2024 served on the Respondent informing them that the Claimant has filed an ET1 and provided instructions on what steps to take if the claim is to be defended.
2. The letter also informed the Respondent of today's date as the final hearing and Cloud Video Platform (CVP) joining instructions.
3. I am satisfied that the notice of hearing had been served and the Respondent is aware of the hearing listed today.
4. In light of rule 47 of the Employment Tribunal Procedure Rules I proceeded with the hearing in the Respondent's absence.

Background

5. The Respondent is a restaurant. The Claimant was employed by the Respondent, as a chef and supervisor at £11.40 per hour. On 14 October 2024 the Claimant was informed of the Respondent's decision to terminate his employment.
6. The Claimant asserts that he was not paid in October for the work done in the month of September.
7. ACAS Early conciliation started 30 October 2024 and ended on 4 November 2024.
8. The claim form was presented on 4 November 2024
9. The claim is about an unauthorised deduction of wages.
10. On 12 November 2024 notice of the Claimant's ET1 and instructions to follow if the claim is to be defended and notice of the final hearing date was served by post on the Respondent at the address Nagawa Ltd 2 Queens Road Southend-on-sea SS1 1LU
11. There was no response from the Respondent.

The Hearing

12. The 1-hour hearing was conducted wholly remotely by video, before an Employment Judge sitting alone. The Claimant appeared in person and the Respondent did not attend.
13. I had the benefit of a bundle documents of 33 pages uploaded to the HMCTS system.
14. I heard evidence from the Claimant but there was no witness statement.

Issues

15. The issues the Tribunal decided are set out below: -
16. Unauthorised Deduction from Wages
 - a. Did the Claimant have a right to receive his salary for September 2024?
 - b. If so, did the Respondent fail to pay that salary?
 - c. if so, does such a failure amount to a deduction from the Claimant's wages?

Findings of Fact

Unlawful Deduction of Wages

17. There is no evidence of a contract of employment, there is only one payslip dated 28 March 2024.
18. The Claimant's evidence is that he was paid hourly at £11.40 per hour. He is paid monthly in arrears. In September 2024 he worked 165.5 hours, but on 1 October 2024 he was not paid. He has made repeated request for payment but sums owed remain outstanding. The Claimant no longer has access to the sage account as such he was unable to obtain his payslips. The only payslip he has is the March 2024 payslip.
19. There were no inconsistencies in the Claimant's evidence. I find the Claimant to be honest and credible, he has no reason to fabricate these facts. Moreover, the Claimant's evidence is unchallenged. I find that the Claimant has successfully proven to the requisite standard that: -
 - a. He was working for the Respondent September 2024 and he has a right to receive his salary.
 - b. The Respondent failed to pay his salary for that period.
 - c. The failure to pay the salary was an unlawful deduction.
20. I am satisfied that the Respondent is in breach of S13 ERA 1996.
21. The Claimant was entitled to be paid his salary for September 2024 and he was not paid and the exceptions in S13 (1) (a) and (b) ERA 1996 are not applicable to the Respondent.
22. For these reasons the Claimant's claim, for unlawful deduction of wages, is well founded.

Remedy

Unlawful Deduction from Wages

23. The Claimant was not paid any salary for September 2024.
24. He was entitled to be paid in full for 165.5 hours worked $165.5 \times £11.40 = £1,893.32$.

Summary of Remedy

- 25. Unlawful Deductions of wages **£1,893.32**
- 26. The Respondent must pay the Claimant the sum of **£1,893.32**

Employment Judge Balroop
Dated: 21 March 2025