



EMPLOYMENT TRIBUNALS

Claimant: Mr A Favara

Respondent: Mr I Iacopini

JUDGMENT

The claimant's claim for unlawful deductions of wages (under section 13 of the Employment Rights Act 1996) is dismissed.

REASONS

Background

1. This was a claim for unpaid wages (namely unpaid service charge) by the claimant. Claimant was employed as a Kitchen Porter/Junior Kitchen Staff from 29 January 2024 to 26 February 2025.
2. The ET1 was lodged on 5 May 2025 (after ACAS Early Conciliation from 20 March to 1 May 2025)
3. The Final Hearing in this claim was scheduled for 29 October 2025, which was notified to both parties by the Tribunal on 2 June 2025.
4. On 7 July the claimant wrote to the Tribunal saying he was unable to attend that hearing as he had to go to GP appointments with his wife who was disabled. He requested that the hearing be brought forward to September but said that if it was not possible to change the date then he would have to "give up continuing with the case". This does not appear to be a formal postponement request.
5. The Tribunal had not dealt with this email from the claimant. The claimant did not "chase" his email of 7 July and did not attend at the hearing on 29 October. He made no further communication with the Tribunal or the respondent after July 2025.
6. The respondent produced on 22 October 2025 an email (which was taken as his Witness statement); sent accompanying evidence and did attend the scheduled hearing.
7. Given the ambiguity of the claimant's email in July, I proceeded with the hearing in his absence as allowed under Rule 47 of the Employment Tribunal Procedure Rules 2024.

Conduct of the Hearing

8. I heard evidence from the respondent on Oath, who adopted his witness statement as his evidence in chief, and I asked him questions about his evidence. I also considered the claimant's ET1 form and the Response Form. The hearing ran from 2 to 3.05 pm.
9. I gave my decision with Oral Reasons at the end of the hearing, but given the claimant's absence at the hearing, have given written reasons as well.

Summary of the Respondent's evidence

10. The respondent explained that following the introduction of the Employment Act 2023 (which came into force on 1 October 2024) he concluded (after speaking to external consultants) that it would be fairest to arrange a meeting of all relevant employees and get them to vote on a policy for distribution of service charge/gratuities among all staff members.
11. The meeting was held on 8 October 2024 at Rossodisera Restaurant in London WC2 and was attended by the majority of staff at the two restaurants operated by the respondent's company. The claimant attended the meeting and had an opportunity to discuss the issues and to vote. The respondent voted as an employee and so only had one vote in the same way as any other employee.
12. At the meeting, the unanimous vote of all employees attending was to agree with the following structure for distribution of the service charge:
 - 43% of the monthly service charge is distributed to Tier 1 employees (those with the highest level of responsibility/seniority), which included the respondent along with two other employees.
 - 49.5% of the monthly service charge is distributed to Tier 2 employees, which contains the majority of employees and, consequently, the majority of hours worked.
 - 7.5% of the monthly service charge is distributed to Tier 3 employees to which the claimant Mr. Favara belongs, and which includes employees with more general and less specialized tasks and/or with less seniority within the company.
13. The respondent produced signed statements from Ms Possanzini, Mr Piras and Mr Lorenzini, who all attended the Employees' meeting on the 08/10/24 and who all confirmed the respondent's evidence as set out above. None of the above attended to give evidence in person.
14. The respondent produced the claimant's payslips for October 2024 to February 2025 which showed the service charge payment as agreed at the 8 October meeting. I asked him if the claimant had raised any queries/challenges to his payslips. The respondent said that he had queried the service charge calculation for January 2025, but he had explained to the claimant that the amount was lower that month because there were more Tier 3 employee hours to be taken into account. He said the claimant accepted this explanation.
15. The respondent said the claimant resigned in early February 2025 for his own personal reasons, related to the way in which the calculation of his pension payments in Italy and the UK worked. He did not resign because of the service charge payments.

16. The claimant had not provided any evidence or witness statement.

Accordingly, I had no reason to doubt the respondent's evidence.

Conclusions

17. I find that based on the evidence presented to me at the Hearing, the claimant has not shown on a balance of probabilities that he was owed any further wages – his claim is dismissed.

Approved by:

Employment Judge D Henderson

29 October 2025

JUDGMENT SENT TO THE PARTIES ON

5 November 2025

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FOR THE TRIBUNAL OFFICE