



EMPLOYMENT TRIBUNALS

Claimant: JONATHAN PANK
Respondent: NATTERBOX LTD
Heard at: London Central (via CVP)
On: 28/11/25
Before: Judge Dowling

Representation

Claimant: Self-represented
Respondent: Neil Hammerton (CEO)

RESERVED JUDGMENT

1. This is a claim brought by Mr Pank for unpaid wages of £7,336.36 under s.13 Employment Rights Act 1996 outstanding on the termination of his employment with the respondent, Natterbox Ltd.
2. The claim is well-founded and succeeds.

Preliminary matters

3. The claimant is a litigant in person. The respondent was represented by its CEO Mr Hammerton.
4. The claimant claims unpaid wages outstanding on termination of £7,336. The respondent's case is that there is no outstanding sum to which the claimant is entitled under the contract.
5. There was a hearing bundle of 155 pages and witness statements from the claimant, and, for the respondent, Mr Hammerton and Mr Hartley. The claimant has also made a written response to Mr Hartley's evidence. I have

taken all of these into account.

6. The claimant asked for Mr Hartley's evidence to be excluded from consideration, on the grounds that his witness statement was not provided until 20 November, in breach of the case management orders, thereby prejudicing the claimant's ability to put his case due to the limited time he had to consider it.
7. The respondent relied on Mr Hartley as, in its view, he was able to give relevant evidence which they had realised only after receipt of the claimant's witness statement. He was not available to give live evidence due to a planned holiday.
8. The claimant had been able to prepare detailed written observations on Mr Hartley's witness statement. Mr Hartley's evidence only went to the limited issue of the correct calculation of sums payable to the claimant, rather than whether sums were payable.
9. I allowed Mr Hartley's statement to be admitted, consistent with the overriding objective of the Employment Tribunal to deal with cases fairly and justly, dealing with cases in ways which are proportionate to the complexity and importance of the issues. I notified the parties that the weight accorded to the statement was likely to be reduced by his non-availability to be cross-examined and lack of supporting documentation.

The hearing

10. The hearing was listed for three hours on 28/11/25 and was conducted on CVP. I heard evidence from the claimant and from Mr Hammerton on behalf of the respondent.
11. At the conclusion of the evidence I heard submissions from the claimant and Mr Hammerton and I reserved my decision.

REASONS

12. The claimant was engaged by the respondent as a Revenue Operations Director between 1/12/23 and 3/10/24.
13. The contract provided he would receive an annual base salary of £120,000 to be paid monthly plus a variable performance related bonus of £36,000 annually, to be paid quarterly.
14. There is no dispute over payment of the base salary which was paid throughout the period of employment in accordance with the terms of the employment contract.
15. The dispute arises over the claimant's entitlement to a bonus payment for Quarter 3 2024 (July to September).

16. The claimant states he should have received £7,336 in accordance with the terms of the employment contract.
17. The respondent states he was not eligible to receive any bonus payment for that period as he had not met the applicable targets.
18. The respondent relies on what it states was a variation of contract by the claimant's agreement to an Individual Compensation Plan ("ICP") and that under the terms of the ICP no bonus was payable for Q3.
19. Alternatively the respondent contends that as the claimant was no longer employed by the respondent after 3/10/24, he was not eligible to receive any bonus based on the provisions of the ICP as commission payments are only due to employees who are actively employed on the date payment falls due, which in respect of Q3, was 25/10/24.
20. The question for the tribunal was whether the Individual Commission Plan, signed by the claimant on 6 March 2024, operated to vary the provisions of his employment contract with respect to bonus so that the bonus operated only by reference to a variable commission based entirely on company revenue.
21. The second issue to be determined, once the contractual position had been decided, was what sums, if any, were owed to the claimant.

Did the Individual Commission Plan vary the terms of the claimant's employment contract?

22. The claimant's entitlement to bonus was a contractual issue, not a question of management prerogative. The claimant's employment contract of 1/12/23 (at clause 3) provided for him to receive a bonus payable quarterly in arrears, 50% of which was determined by the achievement of company revenue targets and 50% by the achievement of individual Objectives and Key Results (OKRs).
23. Clause 1 of the employment contract provided for the possibility of variation by mutual agreement between the Company and the claimant. Clause 31 states "No part of this Agreement may be amended or modified unless reduced to writing, making specific reference to this Agreement and signed by the parties or their authorised representatives."
24. One of the claimant's responsibilities was the planning and operation of the commission plans and the amounts payable to the sales / revenue team. Mr Hammerton states that a key objective for the Claimant was to lead the drafting of a revised ICP.
25. The claimant states he drafted the "FY24 Natterbox Sales Compensation Plan document" but the actual bonus amounts were provided by the HR team and were automatically merged into each employee's Individual Commission Plan (ICP). He states that he had no authority to vary

individual's entitlement to remuneration and I accept his evidence on that.

26. The claimant pre-signed all ICPs, on behalf of the respondent, on 26/2/24, to make their rollout more efficient. He signed his own ICP, as recipient and employee, on 6/3/24.
27. He states that there was a clear error in his own ICP as it did not recognise that element of his bonus payable by reference to his own performance. He states at the Tribunal that this may have been due to his own circumstances being unique and the templated document not picking this up, and that he himself missed this error when he signed it.
28. The respondent relies on this as an effective variation of the employment contract which meant that with effect from 1 January 2024 the claimant's bonus would be referable solely to the company's performance, not his own personal performance.
29. A contract of employment is a legally binding agreement which can only be changed by mutual consent. Strong evidence of mutual agreement is required to establish a lawful variation.
30. For a purported variation to be effective an employee must be aware of what he or she is agreeing to (*Cowey v Liberian Operations Ltd 1966 2 Lloyd's Reports 45, Mayor's and City of London Court*).
31. Section 4 of the Employment Rights Act 1996 provides that where an employee's terms and conditions change, the employer is obliged to issue the employee with a written statement of the change within one month of it taking place.
32. The claimant states he had no awareness of the purported contractual variation until after he had left the respondent's employment.
33. Mr Hammerton accepted on behalf of the respondent that neither he, nor the HR team, were aware of the purported variation until after the claimant had left the respondent's employment.
34. Mr Hammerton stated that remuneration could be agreed between an employee and line manager without his, or the HR team's, authorisation. He suggested it was left to line managers to set their team's remuneration and, in the claimant's case, this would have been Mr Velasquez.
35. There was no evidence available to the tribunal from Mr Velasquez, who no longer works for the company.
36. Mr Hammerton confirmed that, other than the ICP, there is no evidence of an agreement, discussion, negotiation or any other documentary evidence that Mr Velasquez, or anyone else with authority to effect contractual change on behalf of the respondent, did so, in the claimant's case.
37. Mr Hammerton speculated that the lack of evidence may be attributable to the widespread use in the company of a messaging platform, Slack, which is private and from which the respondent is unable to retrieve messages.

38. The claimant's evidence, which I accept, is that he entered no such negotiation or discussion with Mr Velasquez, or anyone else with authority to bind the respondent, in the way the respondent relies on.
39. I agree with the claimant's submission that amongst the strongest evidence that no such contractual variation took place is that he continued to be paid in accordance with the terms of the employment contract without any variation throughout his employment with the respondent, including after the implementation of the ICP.
40. There was no provision in the ICP that it sought specifically to vary the claimant's employment contract as was required to comply with clause 31 of the employment contract. Whilst the respondent relies on clause 1.3 of the ICP as a provision to expressly supersede the claimant's employment contract, I find that it did not have that effect, as it made no explicit reference to the employment contract, it had the effect of regularising calculation of commission based on corporate performance. I find it had no application to an employee's eligibility to receive bonus based on attainment of OKRs where such eligibility was an express contractual provision.
41. There was no written variation to the claimant's statement of particulars as would have been required had it been an effective contractual variation relating to his pay.
42. The respondent's case, taken at its highest, is that the claimant varied his own contract, both on behalf of the respondent and as individual employee. The claimant states that he had no authority or intention to do so. He had not understood that he was doing so by regularising the ICPs, including his own. He stated, and I accept, he had no authority to make any changes to any employee's remuneration, including his own.
43. I find that there was no intention on the side of either the respondent or the claimant to make a contractual variation to the claimant's bonus arrangements through the implementation of the ICP and it did not have that effect.
44. The respondent contends that as the claimant was no longer employed by the respondent after 3/10/24, he was not eligible to receive any bonus for Q3. This contention is based on its interpretation of clauses 2.5 and 3.2. The respondent states that the effect of those clauses is that commission payments are only due to employees who are actively employed on the date payment falls due, which in respect of Q3, was 25/10/24.
45. The respondent's interpretation relies on the vagaries of a date on which payroll processes take place, rather than the rational and predictable basis of commission earned during the claimant's period of employment. I find that interpretation to be incompatible with the claimant's employment contract which provides for bonus to be assessed and paid on a quarterly basis.
46. This rational and predictable interpretation is consistent with clause 3.2 of the ICP which provides that "commission may be earned by the Participant up to their leave date subject to the eligibility requirements set out above including them remaining an active employee as of the date that

commission is payable". I find the correct interpretation of "commission is payable" is the date it can be calculated at the end of the quarter, not the date on which payment is processed.

47. I find that the claimant was eligible to a bonus payment for Q3 in accordance with the terms of the employment contract, as entered into on 1 December 2023.

Calculation

48. For Q3 the claimant's OKRs were set and agreed by Julie McLaren, VP Technology. Performance was reviewed by Julie McLaren and the claimant was found to have attained 100% OKR performance which was entered into the respondent's performance management system.

49. That review of performance attainment is not challenged by the respondent.

50. The claimant is therefore entitled to £4,500 under that element of the bonus arrangements

51. The parties do not agree what would be payable under the other element of the claimant's bonus arrangements, that part referable to the company performance. The claimant claims £2,836.36, whereas I understand the respondent suggests it to be £794.

52. The ICP provides that commission payments for those participants on quarterly plans will be calculated quarterly, using the YTD % attained, less any previous payments made under the FY24 commission plan within the year.

53. The claimant states that the correct calculation is based on the company's performance for 2024 until the end of Q3, which is indicated by the inclusion of the metric "YTD % attained".

54. The claimant calculates commission payable as

- 3 Quarters of 'Revenue Bonus': £4,500 *3 = £13,500
- £13,500* 30.26% (YTD attained by end Q3) = £4,085.10
- Minus the Commission already paid in Q1 and Q2: £1,248.74
- £4,085.10 - £1,248.74 = £2,836.36.

55. The alternative lower figure put forward by the respondent, based on the company's forecasted performance in Q4, does not reflect what was payable under the contract at the end of Q3. Nor does the figure put forward by the respondent pro-rate the claimant's entitlement based on his employment with the respondent ending at the end of Q3. The company's forecasted performance for Q4 had no bearing on "YTD % attained" at the end of Q3 and should not be included in the calculation.

56. The witness statement from Robert Hartley suggests that commissions throughout the year were based on Full-year calculations and this was agreed to by the claimant. Mr Hartley states he was responsible for the technical preparation of commission statements, but the methodology,

calculation rules, and commission rates were determined and provided to him by the claimant.

57. Mr Hartley relies on his recollection of a meeting on 28 June 2024 but has no notes or record of the meeting. He relies on documents he is said to have sent to the claimant but there is no record of him having done so.
58. The claimant states that Mr Hartley is a junior analyst and it is not his role to decide what the ICP provides. The claimant states that Mr Hartley's evidence is false and he was not challenged on this by the respondent. The claimant notes the lack of documentation provided by Mr Hartley to corroborate his assertions. The claimant states that Mr Hartley has failed to correctly apply the ICP which provides for calculations based in "YTD % attained" and does not refer to calculation on a "full year" basis.
59. As noted above, Mr Hartley was not available to be cross-examined and I place very little weight on his evidence. I accept the claimant's calculation of the bonus he was eligible to receive for Q3 and which the respondent was required to pay to him under the contract.
60. I therefore find that the claim for unlawful deductions is well founded and the amount payable by the respondent to the claimant is £7,336.36.

Approved by:

Employment Judge Dowling

12/12/25

JUDGMENT SENT TO THE PARTIES ON

18 December 2025

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FOR THE TRIBUNAL OFFICE