



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms Chih Ying Chen

**Respondent:** Ms Wendy Nehmer

**Heard at:** London South Tribunal (by CVP) **On:** 21 October 2025

**Before:** Employment Judge Richter

## REPRESENTATION:

**Claimant:** In person

**Respondent:** In person

# JUDGMENT

1. The claimant was assisted at the hearing by the presence of her partner Mr Daniel Mills and by Ms Y Lao, a qualified Mandarin interpreter.

## The Claims

2. In an attachment to an ET1 form submitted on 7 April 2025 Ms Chen brings claims of 1) unauthorised deductions from her wages 2) wrongful dismissal 3) failure to provide pay slips 4) failure to comply with a penalty notice s.37F of the Small Business Enterprise and Employment Act 2015 and 5) Damages for a breach of the implied term of trust and confidence. Ms Chen alleges she was dismissed without notice after two weeks of employment working for Ms Nehmer as a nanny.
3. Responding to the claim Ms Nehmer accepts that there were unlawful deductions from the claimant's wages paid for her work in November and December 2024. Ms Nehmer accepts that payslips were not initially provided to the claimant. Ms Nehmer accepts that the claimant was dismissed and not paid notice pay as stipulated under her contract. Ms Nehmer asserts that payslips have now been issued and all sums which were due in respect of these matters have been paid to Ms Chen. Ms Chen accepts that she has received payment for these items.

## **Jurisdiction**

4. As far as the claims outlined in the ET1 form are concerned I note that claim 4 above – said to be brought pursuant to s.37F of the Business Enterprise and Employment Act is not one that this Tribunal has jurisdiction to hear. It relates to the enforcement of penalty notices once a Tribunal judgment has been issued and I am satisfied it can not apply to the claimant's position.

## **Time Limits**

5. In her written response Ms Nehmer identifies that the other of the claimant's complaints may be out of time given that the ET1 claim form was submitted to the Tribunal on 7 April 2025.
6. In respect of the complaint of unauthorised deduction from wages and no pay slips, as set out above, it is accepted that unauthorised deductions took place on 5 December 2024 and 9 January 2025 and no payslips were issued. I am satisfied that this is a series of deductions and as such time runs from 9 January 2025. The ACAS service was contacted by Ms Chen on 11 February 2025 and a certificate was issued by them on 17 February 2025 and I am therefore satisfied that these complaints relating to unauthorised wage deductions and lack of payslips were brought within the primary time limit.
7. In respect of the complaint made of breach of contract I note that Ms Chen accepts she was dismissed on 5 December 2024. Even allowing for the two week period of notice which should have been provided and the early conciliation extension I am of the view that any claim for breach of contract should have been brought by 24 March 2025.
8. I must therefore consider whether it was reasonably practicable for Ms Chen to have brought her claims within that primary time limit. I have heard evidence from Ms Chen. She has described the significant effect that the loss of her employment had upon her. She describes being unable to engage with the process of commencing a claim because she found the situation traumatic and had to force herself to bring a claim. Most significantly she highlights that English is not her first language and she does not speak it well, almost all of the speech at this hearing had to be translated for her. She described how she had real difficulty understanding the legal framework she had to comply with. She set out that she was inexperienced in legal matters and submitted the claim herself with recourse to material she found on the internet. She had approached an agency for free legal advice but she found that they were not of much assistance to her. She says she did not have the means to pay for legal assistance. She further explained that she was waiting to see whether she was paid any notice pay and so it was only after the 9 January 2025 when she received her final payment that she appreciated she needed to bring a claim in connection with the unpaid notice pay. For the respondent Ms Nehmer points out that in text message conversation she had with

the claimant she made clear that she was not going to pay the notice pay and otherwise submits that the claim is out of time.

9. I acknowledge that the test of reasonable practicable is to be read as meaning 'reasonably feasible'. I have considered with care whether it was reasonably practicable for Ms Cheng to have brought the claim for breach of contract in time and I am satisfied on the evidence I have heard in this case that it was not reasonably practicable. In particular I have regard to the following; I accept that Ms Cheng waited to see if notice pay was included in her final payments and despite the exchange of messages I am satisfied that it was reasonable for her to do so to see if it was necessary to bring a claim or not. Most importantly I have particular regard in this case to Ms Cheng's lack of English and accept that she would have had difficulties in researching and understanding the law and time limits for bringing a breach of contract claim. In my view this is particularly so in a case where different time limits attach to the wage deductions and breach of contract elements. I am also satisfied that she prepared and presented the claim herself from her own research and did not have access to legal advice to assist her. I also have regard to the emotional stresses she was under at the time. Taking all matters together I am satisfied that it was not reasonably practicable to have presented the claim within the primary time limit.
10. As set out I note that the claim was brought on 7 April 2025 two weeks after the expiry of the time limit. The claim itself is detailed and articulate, it has clearly been thought about and researched. Having regard to the factors identified above and the work that has clearly gone in to the preparation of the claim I am satisfied that the claim was brought within a reasonable period after the expiry of the primary time limit and as such I do therefore extend the time in respect of the complaint of breach of contract.

### **The Facts and relevant Law**

11. As to the claims themselves, Ms Nehmer has acknowledged that the complaints regarding unauthorised deductions, lack of pay slips and wrongful dismissal are all made out but that the sums due have been paid and pay slips provided. I am satisfied on the evidence I have heard that this is the position and so find as a fact. The sums were due at the end of November and December 2024. I am satisfied that the correct totals were paid on 22 May 2025.
12. Ms Chen has submitted a detailed schedule of loss and has not identified within it any sums of financial loss attributable to the late payments. Ms Chen has however identified other losses which she says stem from the breach of contract. In particular Ms Chen seeks to rely upon the implied duty of trust and confidence as founding the basis for an award of damages of past and future loss of earnings and for damages for personal injury including psychological injury.
13. I remind myself as set out in Malik and Mahmud v BCCI [1997] ICR 606 that an employer must not:

'Without reasonable and proper cause, conduct itself in a manner calculated or likely to destroy or seriously damage the relationship of confidence and trust between employer and employee'

14. Ms Chen identifies late payment, unauthorised deductions from her wages, an allegation of gross misconduct made against her and the abrupt end to her employment as founding a breach of the term above.
15. I acknowledge that failure to pay wages and failure to pay on time are common examples of situations in which the term of trust and confidence in an employment contract is breached. I note however that in this case the allegation of gross misconduct only arose after the termination of the contract of employment and in any event has not been proceeded with by the respondent given the acknowledgement and payment of the relevant period of notice pay. I note that this allegation was first made in private text correspondence between the parties and I make clear that I have heard no evidence on the topic and I make no findings about it. As set out there has been no need for me to address this allegation given the payment now of notice pay. As far as the abrupt termination of employment is concerned I note that this occurred within the probationary period of the contract when either side were entitled to bring the contract to an end by giving notice. It is therefore only in the limited respect of the payment of wages that the implied term of trust and confidence can be considered to have been breached and I so find.
16. In that regard I turn to address remedy. Damages must be assessed with the guiding principle of putting the claimant in the position they would have been in had both parties performed their obligations according to the contract. In this case I am satisfied that in the circumstances of this case the award of damages would mean the award of those sums unlawfully deducted. This claim therefore mirrors the unlawful deduction claim and is covered by the payment of the wages which were properly due to the claimant.
17. I do not accept that the limited breach of the term which I have found enables the award of any further past and/or future loss of earnings. In the circumstances of this case I note that there has been a five month delay in the payment of the outstanding sums but I am not satisfied that an award, above the repayment which has already taken place, is required in this case with no consequential financial losses being identified to me. I further note that damages for psychiatric injury cannot be awarded as damages for breach of contract in the Employment Tribunal – Johnson v Unisys Ltd [2001] ICR 480 HL given the limited contractual jurisdiction conferred to this tribunal by the Extension of Jurisdiction Order 1994.

## Conclusions

18. Accordingly the judgment of the Tribunal is as follows:

## **Wages**

1. 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 November 2024 – 30 December 2024.
2. The amount due has subsequently been paid.

## **Notice Pay**

3. The complaint of breach of contract in relation to notice pay is well-founded.
4. The amount due has subsequently been paid.

## **Written Itemised Pay Statements**

5. The respondent failed to give the claimant written itemised pay statements as required by section 8 Employment Rights Act 1996 in the period 1 November 2024 – 30 December 2024 but these have subsequently been provided.

**Employment Judge Richter  
21 October 2025**

### **Note**

Reasons for the judgment were given orally at the hearing. Written reasons will not be provided unless a party asked for them at the hearing or a party makes a written request within 14 days

of the sending of this written record of the decision.

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