



EMPLOYMENT TRIBUNALS

Claimant: Miss Ayesha Bhattacharjee

Respondent: Wootzano Limited

Heard at: Newcastle (by video) **On:** 16 July 2025

Before: Employment Judge C H O'Rourke

Appearances:

For the Claimant: In person

For the Respondent: Dr Atif Syed – Respondent's CEO

REASONS

(Having been requested subject to Rule 60(5) of the Tribunal's Rules of Procedure 2024)

Background and Issues

1. The Claimant had been employed by the Respondent, as a 'marketing lead', for approximately eight months, until her dismissal with effect 28 February 2025.
2. The Claimant claims unlawful deduction from wages, for her final four months (November 2024 to February 2025), during which she states that she was not paid, at all, in the net sum of £10004.64 and also for payment in lieu of four weeks' notice, not provided at the time of her dismissal.
3. The Respondent alleged poor performance by the Claimant in her role and claims the right to 'set-off' such sums as may be due to the Claimant, for that reason. An attempt by the Respondent to bring a contractual counterclaim against the Claimant had already been dismissed by Employment Judge Arullendran, on 10 July 2025, on the basis that the Tribunal had no jurisdiction to hear such a claim. The Respondent also disputes the period of the Claimant's notice, stating that she continued to

- be within her probationary period and was therefore only entitled to one
4. week's notice, not four, as claimed.
 5. The issues were therefore as follows:

Unlawful Deduction from Wages

- a. Did the Respondent deduct wages from those due to the Claimant for the stated period?
 - b. What is the amount of such net deduction?
 - c. Was any such deduction authorised by any written term of the contract?
 - d. Or, did the Claimant agree in writing to such deduction, before it was made?
6. Pay in Lieu of Notice
 - a. What was the Claimant's entitlement to notice?
 - b. Was that notice given, or, if not, how much pay in lieu of that notice is due?
 - c. If not, was the Claimant guilty of gross misconduct or did she do something so serious that the Respondent was entitled to dismiss without notice?

The Law

7. I reminded myself of s.13 of the Employment Rights Act 1996, as to unauthorised deductions from wages.
8. The Respondent referred to a great deal of case law in its grounds of resistance, but which, for the reasons given below was irrelevant to determination of this matter.

The Facts

9. No joint bundle of documents was provided and neither party's bundle was paginated. I heard evidence from the Claimant and on her behalf from a Mr Aylott and for the Respondent from Dr Syed. That evidence (as relevant) is summarised as follows.

10. The Claimant's Evidence.

- a. The Claimant had not been paid her last four months' wages. I was referred, in this respect, to paragraph 4.4 of the grounds of resistance, in which the Respondent states '*following external customer payment delays in November 2024, the Respondent acted transparently and responsibly by communicating the situation through an all-staff email and individual meetings. Staff were given a genuine choice between redundancy or salary deferment. The Claimant expressly opted for deferment and continued to work without protest.*' The Claimant said that at no point until after her dismissal was any other reason, such as misconduct or negligence on her part, provided to her.
- b. The Claimant denied that she acceded to this arrangement and stated that she sought regular updates as to when she would be paid and was given assurances that the matter was in hand, with backdated payments promised in January and February 2025 [document 3b C's bundle]. After attending a trade show in Germany, in early February 2025, she was verbally promised a payment of £1000, by Mr Syed, to help with her rent.
- c. On 20 February 2025, she was dismissed, without notice, by Mr Syed, on the basis that her role was redundant. On the issue of probation and the effect on her notice entitlement, she said that on 16 October 2024, she had been told, verbally, by Mr Syed, in a meeting that '*congratulations, Ayesha you have passed your probation.*' Although she subsequently asked for a written confirmation of that decision [document 15], none was provided.
- d. Mr Aylott said that he worked with the Claimant and that the Respondent/Dr Syed had never raised any concerns about the Claimant's performance.

11. The Respondent's Evidence.

- a. Dr Syed alleged continuous underperformance by the Claimant which, in effect, justified withholding of deducted wages. When challenged that he had never provided any written warnings or improvement plan to the Claimant, he accepted that that was the case but said that there had been '*multiple conversations*' on the subject. He referred to various documents in his bundle [EM1-8] which are emails containing entirely routine correspondence between him and the Claimant and which certainly would not amount to supporting an allegation of gross misconduct.

b.

- c. He disputed that the Claimant had passed her probation, as her contract required that written confirmation of such an event be provided to her, which it was not. On that basis, therefore, being still on probation, she was entitled to only one week's notice, as per her contract, not the four she now sought [CON-page 3].

Dr Syed agreed that there was no contractual entitlement to withhold wages because the Respondent couldn't afford to pay them, or that the Claimant had provided her written agreement to such deductions.

Conclusions He also agreed that the Claimant (along with other employees) had been emailed on several occasions promising that she would be paid her arrears [C Doc 3, 3b and 8].

12. Probationary Period. The Claimant's evidence was that at a meeting in October 2024, she was verbally told that she had passed her probation, but that when she emailed on 1 November 2024, to obtain written confirmation of that she received no response.
13. Dr Syed denied that the Claimant had been given any such verbal assurance and referred to the contractual term that '*your probationary period will not be deemed to have been completed until the company has carried out its review and formally confirmed the position in writing to you.*'
14. While I don't doubt the Claimant's evidence as to what she was told in the October meeting, she agreed that she had never received any such 'formal written confirmation' and accordingly, therefore, as per her contract of employment, she had not passed her probation and therefore, again as per her contract, her notice period remained at one week, which, there is no dispute, she was not provided with, or paid in lieu of. She is therefore owed one week's pay of £577.15, based on the Parties agreeing that a month's net pay was £2501.
15. Unlawful Deduction from Wages. It was agreed evidence that the Claimant was not paid her wages for four months – a sum of £10,004, net.
16. Dr Syed agreed, in evidence that at the time of such deductions, the Claimant, along with all other employees, who also had their wages withheld, was told that the reason was that the Company could not afford to pay those wages, but that in various emails over the period promised to do so, once funds became available.
17. That is the reason the Claimant's wages were withheld, not the spurious allegations now raised by the Respondent as to alleged underperformance by the Claimant at the time, for which the Respondent has provided no

contemporaneous documentary evidence whatsoever, such as warnings or performance improvement plans.

18. Dr Syed accepts that there is no clause in the Claimant's contract, or any prior written agreement by the Claimant, authorising such deductions, for the reason given at the time, namely that 'we can't afford to pay your wages'. The Claimant, along with other employees, was given no effective choice in the matter and simply had no option but to trust the Respondent's assurances that payment would be forthcoming in due course, which of course, at least in the Claimant's case, was misplaced.
19. Even had the Claimant been underperforming, which I don't accept, there is nothing in the contract permitting deduction of wages for that reason. The only references to such relate to negligence or dishonesty on an employee's part, for which there is no evidence.
20. Accordingly, the Respondent made unlawful deductions from the Claimant's wages, for the period November 2024 to February 2025, in the sum of £10,004.

Judgment

21. The Respondent made unlawful deductions from the Claimant's wages, in the net sum of £10,004 and is ordered to pay the Claimant that sum.
22. The Respondent failed to provide or pay for one week's notice of dismissal and is ordered to pay the Claimant the sum of £577.15.

Employment Judge O'Rourke
Dated 18 December 2025