



# EMPLOYMENT TRIBUNALS

BETWEEN

**Claimant**

**AND**

**Respondent**

Mr N Akers

The Best Connection Group Limited

**HELD AT** Birmingham

**ON**

14 July 2025

**EMPLOYMENT JUDGE** Choudry

**Representation:**

**For the claimant:** No appearance

**For the respondent:** Mr O Darley (Solicitor)

## JUDGMENT

The claimant's claims for unauthorised deduction from wages and holiday pay fail and are dismissed.

## REASONS

### ***Background***

1. Following a period of Early Conciliation commencing on 22 August 2024 and ending on 3 October 2024, the Claimant issued a claim for unlawful deduction from wages and breach of contract which was received by the Employment Tribunal on 3 October 2023. He seeks 35 hours for unpaid lunch breaks and 150.42 hours for additional hours which he says he

worked but was not paid for. He seeks £1,933.11 in total. He also seeks holiday pay of £346.36.

2. The Respondent is an employment business placing temporary workers on temporary assignments at various clients.

### ***Evidence and documents***

3. The Claimant did not attend today nor did the Tribunal have any contact from the Claimant to explain his non-attendance. As such, at 10.23am I decided to proceed with the hearing.
4. I heard evidence from Sharon Latif, a Senior Manager of the Birmingham branch of the Respondent's business.
5. The respondent produced a bundle of 75 pages.

### ***Issues***

6. I set out below the list of issues which the Tribunal needed to consider  
The issues are:

#### **Unlawful deduction of wages**

- 6.1 were the wages paid to the Claimant from 26 October 2023 to 3 June 2024 less than the wages he should have been paid. The Claimant says that he was not paid for the full hours that he worked and that the Respondent deducted one hour's unpaid lunch which he did not take in full.
- 6.2 Was any deduction required or authorised by statute?
- 6.3 Was any deduction required or authorised by a written term of the contract?
- 6.4 Did the Claimant have a copy of the contract or written notice of the contract term before the deduction was made?
- 6.5 Did the Claimant agree in writing to the deduction before it was made?
- 6.6 How much is the Claimant owed?

#### **Time Limits**

- 6.7 Has the Claimant's claim been brought within 3 months of the last deduction in accordance with section 23 of the Employment Rights Act 1996 ("ERA").
- 6.8 If not, was it reasonably practicable for the claim to be brought within time?

### ***Facts***

7. I make the following findings of fact :
  - 7.1 The Respondent is an employment business placing temporary workers on temporary assignments at various clients. The

- Respondent primarily operates in the industrial and driving sectors.
- 7.2 The Claimant was a temporary worker who registered with the Respondent on 5 October 2023. The Claimant worked on assignment at the Respondent's client Clearabee Limited as a drivers mate from 20 October 2023 until 25 March 2024 when he left to start new work with his partner. He earned an hourly rate of £10.42 at the start of his engagement increasing to £11.44 in April 2024 in line with the increases to the national minimum wage. His contract with Clearabee was for 40 hours a week. The assignment had a 1 hour unpaid break which was made clear to the Claimant when he was offered the job and confirmed in his assignment details which specified that the working day was 7am-4pm (9 hours) but that the paid working hours were only 40 hours per week (8 hours a day x 5 days a week) to account for a one hour lunch break. This was mandatory because the workers were driving vehicles.
- 7.3 The Claimant returned to work with the Respondent for another client for 2 days in May and then he did a further 4 hours for a different client on his last day with the Respondent.
- 7.4 The Claimant's claim relates to his pay and hours whilst he worked for Clearabee and not any other client.
- 7.5 The Claimant did not raise any issues in relation to his pay or holiday whilst working at Clearabee until 14 August 2024, more than 4 months after the engagement had been completed.
- 7.6 In her evidence Mrs Latif indicated that each week a request for workers would be received from Clearabee (Booking) to the Respondent's Central Managed Services team, they would pass the booking on to the local branch for that area to find a worker. The booked hours would be submitted back to Clearabee for approval. The vehicles driven are tracked by Clearabee with detailed telemetry and duty time records which they analyse against the hours submitted. Those hours are then approved by Clearabee and paid by the Respondent.
- 7.7 Mrs Latif's evidence was that on receipt of the complaint the Respondent investigated the hours worked by the Claimant and the payments made to him and found no underpayment. The Claimant had not been booked to work the days that he claimed and Clearabee had not stated that he worked those hours on the timesheet.
- 7.8 The terms of the Claimant's engagement with the Respondent which he signed on 5 October 2023 set out the details relating to holiday as follows:

***"HOLIDAY***

*6.1 You are entitled to a maximum of 28 days paid leave each year. The length of a day will be calculated pro rata as 1/5 of the average hours worked over the last 52 weeks*

*6.2 Entitlement to paid leave accrues in proportion to the amount of time worked continuously by you on an Assignment during the leave year. You will not accrue entitlement to paid*

*leave for any period in which you are not working on Assignment.*

*6.3 When you wish to take any accrued leave to which you are entitled, you must notify TBC in writing of the dates of your intended absence. The amount of notice which you are required to give is at least twice the length of the period of leave that you wish to take. The minimum leave you can take is 0.5 days.*

*6.4 Any annual leave will be paid at a rate of an average week's pay for each week of leave, your average week's pay will be calculated based on a reference period of the previous 52 weeks, or the number of complete weeks for which you have worked, if less than 52 weeks.*

*6.5 "Leave year" is the year used for calculating entitlement to leave and starts on 1st March –28th/29th February. You must take leave in the leave year, or you may lose the entitlement, and if you have been paid you must take the leave.*

*6.6 If an overpayment has been made to you in respect of pay and/or leave pay to which you are not entitled, a deduction will be made from your subsequent pay to reflect the overpayment.*

*6.7 None of the provisions of the clauses regarding the statutory entitlement to paid leave shall affect your status as a worker, who is not an employee”.*

- 7.9 In addition to the terms of engagement during the registration process the Claimant was informed that the Respondent's Temporary Worker Handbook, detailing additional relevant information relating to assignments including holiday pay was available to him via the Respondent's website. The Claimant electronically signed to confirm he was aware of this.
- 7.10 Mrs Latif's evidence was that the Claimant did not request any holidays for the holiday year March 2023 to February 2024. As such, any holidays for this holiday year were forfeited as per clause 6.5 of the engagement terms.
- 7.11 Payment in respect of holidays for the period May and June 2024 was paid on 28 August 2024.

### ***Applicable law***

8. Section 13 of the Employment Rights Act 1996 (ERA) provides:

*“(1)An employer shall not make a deduction from wages of a worker employed by him unless—*

*(a)the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or*

*(b)the worker has previously signified in writing his agreement or consent to the making of the deduction.*

*(2)In this section “relevant provision”, in relation to a worker’s contract, means a provision of the contract comprised—*

*(a)in one or more written terms of the contract of which the employer has given the worker a copy on an occasion prior to the employer making the deduction in question, or*

*(b)in one or more terms of the contract (whether express or implied and, if express, whether oral or in writing) the existence and effect, or combined effect, of which in relation to the worker the employer has notified to the worker in writing on such an occasion.*

*(3)Where the total amount of wages paid on any occasion by an employer to a worker employed by him is less than the total amount of the wages properly payable by him to the worker on that occasion (after deductions), the amount of the deficiency shall be treated for the purposes of this Part as a deduction made by the employer from the worker’s wages on that occasion.*

*(4)Subsection (3) does not apply in so far as the deficiency is attributable to an error of any description on the part of the employer affecting the computation by him of the gross amount of the wages properly payable by him to the worker on that occasion.*

*(5)For the purposes of this section a relevant provision of a worker’s contract having effect by virtue of a variation of the contract does not operate to authorise the making of a deduction on account of any conduct of the worker, or any other event occurring, before the variation took effect.*

*(6)For the purposes of this section an agreement or consent signified by a worker does not operate to authorise the making of a deduction on account of any conduct of the worker, or any other event occurring, before the agreement or consent was signified.*

*(7)This section does not affect any other statutory provision by virtue of which a sum payable to a worker by his employer but not constituting “wages” within the meaning of this Part is not to be subject to a deduction at the instance of the employer.”*

9. Section 27(2)(b) of the ERA specifically excludes:

*“(2) Subject to subsection (4), an [employment tribunal] shall not consider a complaint under this section unless it is presented before the end of the period of three months beginning with—*

*(a) in the case of a complaint relating to a deduction by the employer, the date of payment of the wages from which the deduction was made, or*  
*(b) in the case of a complaint relating to a payment received by the employer, the date when the payment was received.*

*(3) Where a complaint is brought under this section in respect of—*

*(a) a series of deductions or payments, or*

*(b) a number of payments falling within subsection (1)(d) and made in pursuance of demands for payment subject to the same limit under section 21(1) but received by the employer on different dates, the references in subsection (2) to the deduction or payment are to the last deduction or payment in the series or to the last of the payments so received.*

*[(3A) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2).]*

*(4) Where the [employment tribunal] is satisfied that it was not reasonably practicable for a complaint under this section to be presented before the end of the relevant period of three months, the tribunal may consider the complaint if it is presented within such further period as the tribunal considers reasonable”.*

## **Conclusions**

10. In reaching my conclusions I have considered all the evidence I have heard. I have also considered the bundle in its entirety as well.
11. Given that the Claimant’s claim relates to his engagement by Clearabee which ended on 25 March 2024 any claim in respect of his outstanding pay should have been brought by 24 June 2024. The Claimant does not get any extension by virtue of Early Conciliation as this did not commence until after the primary limitation period had expired. As such, the claim has been brought out of time and the Tribunal does not have jurisdiction to hear the claim unless it is satisfied that it was not reasonably practicable for the claim to be presented on time and that it was then presented within such further period as the Tribunal considers reasonable. The Claimant has not, despite being asked to do so by the Tribunal, provided any information to explain why it was not reasonably practicable to bring his claim on time. In the absence of any such information I am satisfied on the information before me that it was reasonably practicable for the claim to be brought in time and as such, the Tribunal does not have jurisdiction to hear the complaint.
12. For completeness, I have considered whether the respondent has made any unlawful deductions by not paying the Claimant for one hour unpaid lunch break and the additional hours he says he has worked. The contract he was working under was for 40 hours and included an unpaid

lunch break of 1 hour. I am satisfied on the information before me that the Claimant has been paid for all hours that he worked and that no further sums are due to him. In relation to his holiday pay he forfeited his holiday entitlement for the holiday year 2023/2024 and was paid all outstanding holiday for the holiday year 2024/2025.

13. As such, the Claimant's claims for unlawful deduction from wages and holiday pay fail and are dismissed.

Approved on 14 July 2025  
Employment Judge Choudry