



**IN THE EMPLOYMENT TRIBUNAL (SCOTLAND)**

**Judgment of the Employment Tribunal in Case No: 8002488/2025 Heard on the  
Cloud Based Video Platform, at Edinburgh, on 4 March 2026**

**Employment Judge J G d'Inverno**

**Mr C Jones**

**Claimant  
In Person**

**CCHG Ltd**

**Respondent  
Represented by:-  
Mr Ali of Counsel**

**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

**(First)** The judgment of the Employment Tribunal is that the claimant's complaints of Unauthorised Deduction from Wages contrary to the provisions of section 13 of the Employment Rights Act 1996 ("ERA") are dismissed.

**(Second)** The claimant's complaint of Breach of Contract arising on termination of employment is dismissed.

**Employment Judge: J G d'Inverno**

**Date of Judgment: 1 April 2026**

**Entered in register: 7 April 2026**

**and copied to parties**

## REASONS

1. In the course of Case Management Discussion conducted at the outset of the Hearing parties confirmed their agreement and the Tribunal recorded that the issues requiring investigation and determination before the Tribunal were:-

(First) Whether, as at the Effective Date of Termination of his employment on 14 July 2025 the claimant had some entitlement in law, (in contract), to receive one, or other, or both of the bonus payments claimed by him in terms of his initiating Application ET1 and if so, in what amounts;

(Second) Did the respondent, in failing to make payment to the claimant of such bonus amounts in their final remittance make an unauthorised deduction from the claimant's wages contrary to the provisions of section 13 of the ERA.

### Sources of Oral and Documentary Evidence

2. The claimant appeared In Person and gave evidence on his own behalf. He also led evidence from Mr Grant McIntosh, former Head of HR in the respondent company.
3. The respondent was represented by Mr Ali of Counsel and led evidence from Mr Jimmy Strachan, a member of the Senior Board with responsibilities for operations across the Group.
4. Both witnesses gave evidence on oath and answered questions in cross examination together with questions put by the Tribunal.
5. Parties lodged a hearing bundle extending to some 122 pages, the last 4 documents of which forming pages 108 to 122 inclusive were lodged by the respondent's representative at the outset of the Hearing. Reference to some of the documents in the bundle was made by parties in the course of evidence and or submission.

### Findings in Fact

6. On the oral and documentary evidence presented the Tribunal made the following essential Findings in Fact restricted to those necessary and relevant to the determination of the issues before it.
7. The respondent is a limited company which sells electronic nicotine delivery systems (ENDS) or e-cigarettes (commonly known as "vapes"), and associated accessories and paraphernalia, both online and through their stores.

8. The claimant was employed as “Head of Property” by the respondent between 6 November 2023 until 14 July 2025 on which latter date he was made redundant. The claimant was employed by the respondents for approximately 20 months.
9. The Effective Date of Termination of the claimant’s employment was 14 July 2025.
10. The claimant’s key duties were to manage the transactional legal work associated with new shop leases; coordinate refurbishments and costs of existing stores; and deliver legal and property ?.
11. The claimant advances claims in relation to the non payment of 2 bonuses which he asserts were due upon termination of his employment:-
  - (i) The first claim relates to an asserted contractual bonus/incentive scheme; and
  - (ii) The second refers to an alleged (side deal) based upon the profit generated by the respondent’s associated company CCHC Fabrefit Ltd.
12. The claimant’s employment with the respondent company was regulated by a written Contract of Employment which is copied and produced at pages 49 to 61 of the hearing bundle.
13. In terms of his Contract, the first 6 months of the claimant’s employment was probationary.
14. At page 2 of the Contract (page 50 of the bundle) under the heading “Pay Arrangements” the Contract provides, amongst other matters,-

*“... an incentive plan and KPI’s [sics] will be agreed at end of your probationary period, up to a maximum of 20% of annual salary, yearly.”*

The Contract of Employment (page 50 of the bundle) provides for the agreement of 2 distinct but connected matters namely “Key Performance Indicators” and “an Incentive Plan”.
15. The claimant’s non contractual Job Specification contained an overview of his Key Performance Indicators (“KPIs”) as follows:-

“Ensuring the department is hitting the following targets:

  - Maintenance budget
  - Store opening timelines and Project Plans
  - Store OPEX budgets

Keeping department operational costs within budget monthly. Delivering 70% savings on legal costs through in house management.”

16. The claimant's Contract did not guarantee an amount, formula or timescale for the payment of any bonus. The Clause referred to paragraph (14) above did not confer an automatic right to any payment.
17. No such right in contract to bonus payment could arise until, at a point following the conclusion of the claimant's probationary period:
  - (a) an Incentive Plan and Key Point Indicators had been agreed between the claimant and the respondent,
  - (b) such Key Point Indicators had been met and
  - (c) the entitlement to receipt of a bonus payment in a particular amount had been approved by the respondent's Board of Directors.
18. During the period of the claimant's employment the respondent operated a Bonus Scheme which applied to Retail Warehousing Teams and Manufacturing Teams.
19. The terms and conditions of that Bonus Scheme are set out at pages 120 and 121 of the bundle.
20. The terms of that Bonus Scheme did not apply to senior members of management.
21. The claimant was a senior member of management.
22. In 2026 the respondent introduced a Bonus Scheme which applies to and is available to senior members of management and Directors.
23. The Bonus Schemes historically operated by the respondent, and the newly introduced Bonus Scheme for Senior Managers and Directors, are “**all or nothing**” Bonus Schemes, that is to say, all Performance Indicators must be fully met before entitlement to bonus arises.
24. No entitlement to a “partial bonus” arises from “partial compliance” with agreed Performance Indicators.
25. In May of 2025, following the conclusion of his probationary period on or about 6 May 2024, the claimant met with his then Line Manager Greg Fowler and discussed and agreed Key Performance Indicators.
26. At the 6 May 2024 meeting the claimant and Greg Fowler had no discussion about and reached no separate agreement regarding bonus.
27. At the 6 May 24 meeting, no agreement was reached between the claimant and the respondents in relation to an Incentive Plan.

28. Notwithstanding the lack of discussion or agreement in relation to an Incentive Plan, the claimant inferred, from the agreement of Key Performance Indicators and the provision of his Contract of Employment; viz – *“An Incentive Plan and KPIs will be agreed at end of your probationary period, up to a maximum of 20% of annual salary, yearly.”*, that if he met the Performance Indicators which had been agreed he would be automatically entitled to a 20% yearly bonus based on his annual salary.
29. The claimant further inferred that in the event of his only partially meeting the agreed Performance Indicators that he would be entitled to a pro rated amount of what would otherwise be a 20% bonus.
30. Any Incentive Scheme (bonus agreement) to be entered into between the claimant and the respondent following the end of his probationary period on or around 6 May 2024 would have required to have its terms expressly agreed between the parties there being no pre existing terms of a Bonus Scheme in which the claimant, as a senior member of management, was eligible to participate.
31. At all times during the claimant’s employment the question of whether entitlement to bonus had arisen and if so in what amount were subject to formal confirmation (sign off) by the respondent’s Board of Directors.
32. Prior to such sign off, no contractual entitlement to bonus was created.
33. In January of 2025 Mr Jamie Strachan returned to the respondent’s business having been previously employed by them for a number of years.
34. In or around March of 2025, Mr Strachan assumed appointment as Group Operations Manager becoming a senior Board member reporting to the individual Company Managing Directors.
35. At that point in time Mr Strachan became the claimant’s direct Line Manager.
36. Mr Strachan was one of the Departmental Heads to whom the claimant as Head of Property reported directly.
37. Mr Strachan had twice weekly meetings with the claimant, one being a more general trade meeting, and one being a “property meeting” relating particularly to the claimant’s duties.
38. In addition Mr Strachan interacted with the claimant on a minimum of 2 additional occasions in the course of the normal working week.
39. In March of 2025 the claimant required to reschedule one of his regular meetings with his Line Manager, (by that time Mr Strachan). The meeting which required to be rescheduled was a meeting at which the claimant had intended to attempt to discuss, in addition to the normal meeting Agenda, the issue of his bonus.

40. The claimant believed that he had met/partially met agreed Performance Indicators relating to the preceding financial year and that he was thus entitled to a pro rated payment of a bonus.
41. The claimant's position in evidence was that he raised with Mr Strachan his desire not only to reschedule the regular meeting which he had been unable to attend but also the fact that he wished to discuss "his bonus" at that meeting.
42. Mr Strachan's position in evidence was that the claimant had at no time during the course of his employment ever raised with him the question of a bonus or a desire to discuss a bonus.
43. Mr Strachan's position in evidence was that he first became aware of the claimant's assertion that he was entitled to bonus payments when he had been informed that the claimant had raised that in the course of the redundancy process.
44. The claimant had 2 redundancy consultation meetings with the respondent's HR Department, the first of which was conducted with Mr Grant McIntosh, then Head of the respondent's HR Team, on 19 May 2025.
45. In the course of that meeting of 19<sup>th</sup> May 2025 the claimant raised the question of his entitlement to a redundancy payment and the question of "his bonus". He asked of Mr McIntosh when "*my bonus payment would be received*".
46. Mr McIntosh replied that while he had a figure for and could confirm the amount of the claimant's redundancy payment, he was wholly unaware of any question of a bonus but would "raise that matter with senior management". He went on to indicate that if it were the case that a sum was due to the claimant by way of bonus it would be paid to him as part of a final settlement figure which would include also his redundancy payment.
47. Mr McIntosh confirmed in the course of cross examination that he had no authority to agree with the claimant that a bonus payment was due to him or indeed to agree the amount of any such bonus payment and that he did not do so.
48. The notes of the second redundancy consultation meeting which proceeded on 13 June 2025 are set out at pages 83 to 86 of the bundle and disclose no discussion, on the part of either the claimant or the respondent's attending HR representatives, of any bonus payment.
49. The claimant separately seeks payment of a bonus based upon 10% of the profit generated by another group member company CCHC (Fabrefit) Ltd. The claimant was not employed by CCHC (Fabrefit) Ltd ("Fabrefit").
50. Fabrefit is a separate legal entity. It is not a wholly owned subsidiary of the respondent company.

51. Two of the Directors of the respondent company CCHG Ltd namely Calum Henderson and Rehan Taha were also Directors of Fabrefit.
52. Fabrefit is a shop fitting service company to which the respondent company contracts out the shop fitting of its new premises, both those operated by the respondents themselves and those to be operated by franchisees. The company was one which has hitherto traded at a loss. The aspiration for it is that it will, in due course, become profitable by providing similar services to third party customers.
53. Fabrefit is managed by its Workshop Manager.
54. Fabrefit does not operate or offer a Bonus Scheme to any of its employees as its revenue is, for the time being at least, substantially generated by business emanating from the respondent.
55. Fabrefit's unaudited financial statements for the financial year ended 31 December 2024, and filed with the Registrar of Companies, are produced at pages 111 to 119 inclusive of the bundle. Those accounts bring out a trading loss of £19,003 in the financial year to 31 December 2024.

### Submissions

56. The Tribunal is not under obligation to set out at length the submissions of parties, and accordingly only summarises below the submissions made by the respondent's representative.
57. In the interests of completeness, however, and considering that the claimant was a litigant in person, the Tribunal sets out in their entirety the submissions made by the claimant as noted.
58. The claimant submitted as follows:-
  - “● *KPIs bonuses were agreed. The Job Description demonstrated that a big chunk of these were what the Property Team did goes back to the KPIs, something which is clearly supported in the bundle.*
  - *Only the cost savings I say were approved by the Finance Team.*
  - *I say the period to which the bonus should relate is the whole period up until paid and not just from the end of my probationary period.*
  - *Also on the Fabrefit KPIs, I was heavily involved from February onwards figures and progress were discussed at monthly meetings but I don't have the financial management information now.*

- *I say that the March management account figures show Fabrefit as profitable [sic at that point in the financial year].*
- *The respondent's witnesses say that the issue of bonus was first focused I say that the question of my bonus was brought up by me during the first redundancy consultation meeting on the 19<sup>th</sup> of May with Finn McGillivray, no Minutes for which are available. I also say I had brought it up earlier so it was not a shock to anyone.*
- *The respondents say that no question of bonus could arise until after my probationary period had ended and agreement regarding it had been reached, but I say it should apply to the 12 month period including the months of my probationary period, that is from January to December 2024."*

59. The claimant further submitted, in exercise of a limited right of reply to the respondent's submission, as follows

- *pages 35 and 36 of the bundle at paragraph 14 of the respondent's Grounds of Resistance in the Table which they set out there, in the alternative they say that even if Key Point Indicators which I say were agreed and a bonus [that is "an Incentive Plan and the terms upon which entitlement to bonus and its quantification"] had been agreed, they say that 2 of the 4 KPIs being "deliver planned refurbishments" and "major projects" had been met and 2 of the 4 KPIs being "delivery new store opening programme" and "cost savings" had not been met*
- *I say that entitlement to bonus should not arise on an all or nothing basis but where there is partial achievement of KPIs there should also be a proportionate entitlement to bonus and that the evidence of Mr Strachan should be preferred".*

### **Summary of Submissions for the Respondent**

60. In summary the respondent's representative submitted as follows:-

- Under reference to page 2 of the claimant's written Contract of Employment (page 50 of the hearing bundle), that before any entitlement in contract or otherwise in law to any bonus payment could arise, 2 distinct matters required to be agreed with the claimant and could only be agreed following the end of the claimant's probationary period which occurred on or around 6 May and that no entitlement to bonus could arise in respect of any period prior to the end of the probationary period.

- That the 2 elements upon which agreement required to be reached were:-
  - Firstly, Key Performance Indicators (and by implication the period of time over which they were to apply); and secondly, “an Incentive Plan” by which was meant the terms upon which any entitlement to bonus would arise and upon which any such entitlement was to be calculated.
  - Regardless of whether and what KPIs may have been agreed, there was no evidence before the Tribunal that went to establish that discussion about, far less agreement of, an “Incentive Plan” had ever occurred.
  - The claimant, in evidence, had conceded that no discussion about an Incentive Plan had been taken forward at the end of his probationary period, only discussion about KPIs.
  - That position was one which mirrored the case given notice of at section 8.2 of the initiating Application ET1 (page 10 of the bundle), 4<sup>th</sup> paragraph – *“My contract states ‘company incentive scheme will be reviewed and agreed post successful probation and agreement of KPIs relevant to the role, up to a maximum of 20% of your salary’”*

61. While the words ‘company incentive scheme will be reviewed’ was a misrepresentation of what was actually set out in the Contract, neither that wording, nor the actual wording contained within the Contract constituted an agreement of an “Incentive Scheme”. Nor did it guarantee any amount by specification of a formula nor any timescale for the payment of any bonus. Neither version of the wording conferred any automatic right to any payment. What it did was to make clear that the agreement of both of the elements referred to was a pre-requisite of any entitlement to bonus arising. It separately set a maximum of 20% of annual salary upon the amount of any bonus which might emerge from any agreed Incentive Plan.

62. It did not justify the claimant’s statement in the ET1 *“So I was expecting a minimum of 20% bonus”*.

- The claimant had described in evidence his intention to make a Powerpoint presentation to the Directors at a meeting *“With a view to getting my bonus signed off”*, that is to say with a view to trying to agree an Incentive Plan with the Directors. No such meeting had taken place and the Powerpoint, copies of which the claimant had included in the bundle, was never presented to the Directors.

- Absent such agreement, the claimant could only ever have had an expectation, on his part, of establishing an entitlement to bonus.
  - At the material time there was no Bonus Scheme (Incentive Plan) operating within the respondent's organisation in which the claimant, in the appointment which he filled which was categorised as 'senior management', would have been entitled to participate. Such Incentive Plans as were operating at the time were restricted to members of the Retail and Warehousing Teams. Those Bonus Schemes were "**all or nothing**" schemes that is to say, unless all of the agreed Key Point Indicators were met by the participating staff, (in the assessment of the Directors" were met), no entitlement to bonus arose.
  - There was no existing Scheme to which the claimant could refer by way of arguing that its terms were impliedly agreed as relating to himself.
  - Thus, bespoke agreement, as indicated in his Contract of Employment would have been a pre-requisite of any entitlement to bonus being established. Any such agreement would have required the sanction (sign off) of the respondent's Directors who would have agreed only to an "**all or nothing**" scheme and would not have agreed to a proportionate scheme by which partial achievement of Key Performance Indicators would have resulted in an entitlement to a partial bonus payment. While a Bonus Scheme which was to be open to Directors and members of senior management in relation to future performance periods, had been introduced in 2026, that Scheme, like the pre-existing Schemes in which participation was restricted to warehousing and retail staff, was an "*all or nothing*" scheme.
63. The oral evidence of both the claimant and of Mr Strachan who was a member of the senior Board, each given orally before the Tribunal on oath or on affirmation, concurred in confirming that the claimant had not met all 4 of the Performance Indicators upon which he relied, let it be assumed that the Tribunal was otherwise satisfied that such Performance Indicators had been the subject of agreement between the respondents on the one hand and the claimant on the other.
64. It followed therefore that no entitlement to bonus in respect of the claimant's employment with the respondent had been established and that thus the complaint of unauthorised deduction from wages in respect of non payment of any such bonus fell to be dismissed.
65. Regarding the second complaint of unauthorised deduction which related to an alleged bonus payment said to be due in respect of 10% of the profit generated by the respondent's "sister company" CCHC Fabrefit Ltd, the respondent's

representative submitted that no such entitlement in law had been established and thus the complaint of unauthorised deduction from wages at the hands of the respondent, against whom the claim was directed, by reason of their not having made payment of such a bonus to the claimant, fell to be dismissed.

66. The case of which the claimant gave notice in his initiating Application ET1 and in his evidence was that the asserted entitlement arose outwith his Contract of Employment and contractual relationship with the respondent.
- [see 6 paragraph first sentence of section 8.2 of the ET1 at page 10 of the bundle – *“I was also tasked with managing CCHC (Fabrefit) Ltd, non contractually, as this was one of the group of companies owned by the owners.”*]
67. It was the claimant’s assertion that he had entered into agreement with 2 of the Directors of the respondent company, who coincidentally also were Directors of the separate legal entity CCHC (Fabrefit) Ltd, that in return for his managing that company such that it generated a profit in the financial year in question, that he would receive 10% of such profit by way of a bonus.]
68. In his evidence the claimant had been wholly unclear as to the person in law with which he asserted he had reached such an agreement. That is to say he was unable to say in what capacity the 2 named individuals had entered into that alleged agreement with him. When pressed to do so in the course of answering questions put to him, he had ultimately said that the individuals were acting in their capacity as Directors of the respondent company.
- He was unable to say on what basis he had now reached that conclusion or why he had been unclear about it prior to that point in time, or to explain why the individuals, acting in their capacity as Director of the respondent company would have had the authority to enter into an agreement regarding the distribution of profit from the separate legal entity CCHC (Fabrefit) Ltd.
69. The respondent’s representative invited the Tribunal to hold that no agreement which established an entitlement in law on the part of the claimant to receive a payment from the respondent of 10% of the profit of a third company and separate legal entity had been established. On that basis the respondent’s representative invited the Tribunal to dismiss the complaint.
70. Separately and in any event let it be assumed that such an agreement had been established in evidence before the Tribunal such as to entitle the Tribunal to make relevant Findings in Fact on the evidence presented, the claimant had failed to discharge the onus of proof in establishing that the company had generated a profit in the relevant accounting period and if so in what amount.

71. On the one hand the claimant's assertion of profit was said to rely upon management accounting information generated on or before the Effective Date of Termination of his employment (14 July 2025) that is to say after only 6 months of the relevant financial trading year had elapsed. That management accounting information was not produced but rather it was the claimant's oral evidence that it projected, at that point, a potential profit for the year of £151,465 and that those figures, as at that point in time, had been checked and agreed by the respondent's Finance Controller Haseeb Farrukh. No evidence from Mr Farrukh was led.
72. Separately and in any event, that position was contradicted by the unaudited financial statement of the respondents for the financial year ended 31 December 2024 which had been filed with the Registrar of Companies and which was produced at pages 111 to 119 of the hearing bundle. That financial statement, generated at the end of the accounting period, namely 31 December 2024 and by its nature one which superseded any management accounting information generated at the half way point in the accounting period, showed the company generating a loss of £1903 in the relevant accounting period (see page 113 of the hearing bundle).
73. The respondent's representative submitted, in the alternative let it be assumed that an agreement of the type and to the effect asserted by the claimant had been entered into between him and the respondent, which was denied, that the claimant had failed to discharge his burden of proof in respect of establishing that the conditions of such an agreement had been met, that is to say that CCHC (Fabrefit) Ltd had generated such an alleged profit in the accounting year in question and if so in what amount. And thus, the claimant would, in any event, failed to establish any entitlement to bonus on his taking his own case at its highest.
74. For that additional reason the respondent's representative invited the Tribunal to dismiss the second complaint of unauthorised deduction from wages.

### **The Applicable Law**

The claim presented is one which proceeds in terms of section 13 of the Employment Rights Act 1996, that is to say as complaints of unauthorised deduction from wages in terms of section 13 of the 1996 Act ("the ERA"); *"Although the claim appeared to have been registered by the Tribunal also under its contractual jurisdiction awakened on termination of employment. The cap applying to that jurisdiction was incompatible with the combined claims advanced of £38,146.50."*

75. Section 13 of the ERA 1996 provides as follows:-

**"13 Right not to suffer unauthorised deductions.**

(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.

(8) In relation to deductions from amounts of qualifying tips, gratuities and service charges allocated to workers under Part 2B, subsection (1) applies as if—

- (a) in paragraph (a), the words “or a relevant provision of the worker’s contract” were omitted, and
- (b) paragraph (b) were omitted.”
76. It is settled law that the withholding of a payment which falls within the definition of “wages properly payable” by an employer to a worker constitutes a deduction for the purposes of section 13 potentially attracting its protection.
77. In order to so qualify for protection there must be first established, on the part of the claimant an entitlement in law, whether in contract or otherwise, to receive the payment which by nature and amount is the subject of the complaint.
78. The onus of proof sits entirely with the claimant to establish that entitlement.
79. In the instant case the claimant gives notice of seeking to establish a contractual entitlement.
80. In Scots law a contract cannot be established absent agreement being reached on essential elements which, amongst other include:-
- The identity of the parties to the contract
  - The subject matter (material terms) of the potential contract
  - A mutual intention amongst the parties to create legal relations; and
  - In so far as agreement involves an obligation to pay money specification of the amount of money and or of a mechanism by which it can be ascertained
81. If an asserted contract fails in any of these elements, it cannot be legally valid. It cannot establish a right in law to payment.
82. Where one of the parties is an unnatural person in law, for example a limited liability company, those persons, natural or unnatural by whose agency it is said to contract must have the requisite actual authority, either express or implied, which failing ostensible authority, to bind the contracting party to the obligation/obligations in question.

### **Discussion and Disposal**

83. As indicated above, the burden of proof in respect of these matters sits with the claimant. The standard of proof is “on the balance of probabilities” in relation to the first complaint of unauthorised deduction from wages, that is to say in respect of an amount of bonus allegedly due by the respondent to the claimant and arising out of the performance of the Contract of Employment between those parties, the

Tribunal considered, on the evidence presented, that the claimant had failed to discharge that burden of proof.

84. While the identity of the alleged contracting parties was not in dispute there was no evidence of agreement between the parties as to the necessary “Incentive Scheme” as provided for in the Contract of Employment, nor of the alleged proportionate or sliding scale in terms of a mechanism by which any amount of bonus, let it be assumed that applicable Key Performance Indicators were agreed, could be calculated. The claimant’s evidence throughout was in the passive voice, that is to say “*these matters were agreed*”, without specification of the mechanism or exchange of offer and acceptance by which they were said to have been agreed. The claimant appeared to accept the respondent’s position that only that the respondent’s Directors required to “sign off”, agree the terms of any incentive agreement and ultimately whether and to what extent they had been met and any amount of bonus due. He did not offer to prove, nor did he present evidence that would have allowed the Tribunal to find in fact, that the Directors had so agreed. The claimant founded upon correspondence from Mr Grant McIntosh, then Head of Human Resources who met with the claimant in the process of redundancy consultation and whose answer to the claimant’s question posed during the redundancy consultation meeting “Mr Jones asked when his bonus would be paid” and which was to the effect – “*I confirmed to him that his bonus would be paid in full as part of his final settlement*” as evidence of a concluded agreement with the respondents. Mr McIntosh clarified in evidence that in making that statement he was not confirming or accepting that any bonus was due to the claimant, that being a matter of which he had no knowledge and in any event no authority to agree or confirm, but rather, taking the claimant at his word, was predicated upon an assumption that some such bonus payment was or would be established as being due to the claimant.
85. The claimant appeared also to rely upon his Contract of Employment and the terms of the Clause appearing on page 2 set out above as constituting an agreement between the parties of an entitlement to a minimum of a bonus of 20% of annual salary, automatically upon the agreement of Key Performance Indicators.
86. Applying to the wording of the Clause the normal rules of construction and according to the words used their normal English language meaning the Tribunal concurred with the respondent’s representative’s submission that no such right to receive a bonus payment at a minimum of 20% of annual salary, or at all, was constituted by the terms of the contractual provision. Rather, the Clause properly construed made clear that no entitlement to bonus could arise absent agreement on the 2 essential elements described, only one of which was that of Key Performance Indicators and separately that the measure of 20% of annual salary was a cap or upper limit on any potential bonus which might emerge from the terms of an agreed Incentive Scheme and not a minimum.

87. Separately, no evidence was presented, nor did any inference arise, either from the wording of that Clause or from any other oral or documentary evidence before the Tribunal, of an entitlement to a pro rata payment of bonus in the event of partial compliance only with Key Point Indicators. On his own evidence the claimant accepted that he had not achieved full compliance with all of the Key Point Indicators which in his assertion had been the subject of agreement between himself and the respondent.
88. The Tribunal concluded that the claimant had failed to discharge his burden of proof in respect of the first complaint of unauthorised deduction from wages which complaint fell to be dismissed.
89. Regarding the second complaint, on the oral and documentary evidence before it and upon consideration of the submissions made the Tribunal similarly concluded that the claimant had failed to discharge his onus of proof and that the complaint of unauthorised deduction from wages in respect of an alleged bonus of 10% of the profit generated by the separate legal entity CCHS Fabrefit Limited, complaint fell to be dismissed.
90. The Tribunal considered that the evidence presented was insufficient to sustain a Finding in Fact even as to the identity of the alleged parties to the contract.
91. The claimant was clear in evidence that he did not assert that the 2 named individuals had contracted in a personal capacity such as to entitle the claimant to receive a "bonus payment from them personally". That left only their negotiating and potentially contracting, on behalf of one or other of the respondent limited liability company CCHG Ltd of which it was accepted they were Directors or as agents on behalf of the separate legal entity CCHC Fabrefit Ltd, a company with which the claimant, on the face of his ET1 asserts he had no contractual relationship. CCHC Fabrefit Ltd were not a party to the proceedings and thus no case against them, regardless of the evidence which might have been led could have been established in these proceedings.
92. That was a point made in submission by the respondent's representative after which the claimant although having been wholly unsure of the capacity in which the named individuals were said to have been concluding an agreement with him opted to assert that they must have been doing so in their capacity as Directors of the respondent company.
93. The claimant provided no basis in evidence or submission for that conclusion.
94. That is a position which, on its face, would appear to be inconsistent with an agreement about the distribution of the profit of another limited liability company. There was no articulation of a proposition on the basis of which, or evidence that went to show, that the named individuals, in their capacity as Directors of the respondent company had or would have had authority, actual (express or implied)

or ostensible to enter into agreements regarding the distribution of profits of the separate legal entity which is CCHC Fabrefit Ltd, not least to an individual who was neither an employee of that company nor had any direct contractual relationship with it. Although it appeared not to be a matter in dispute between the parties that the 2 Directors of the respondent company who were named by the claimant were also separately Directors of CCHC Fabrefit Ltd, there was, for example, no proposition or evidence that went to support a proposition that CCHC Fabrefit Ltd was a wholly owned subsidiary of the respondent company CCHG Ltd.

95. If any inference could be said to arise from that circumstance as to the capacity with which they may have negotiated with the claimant their directorship of that company might be said to infer that it was more likely that they were negotiating on behalf of CCHC Fabrefit Ltd in their capacity as 2 of its Directors and shareholders rather than on behalf of the respondent company.
96. As has already been stated, however, the claimant directs his complaint of unauthorised deduction from wages, not against CCHC Fabrefit Ltd but rather against the respondent.
97. Separately, and in any event, let it be assumed that the difficulty attendant on the identification of the parties to any such contract had been satisfactorily resolved, the claimant's case was for receipt by him/payment to him, of 10% of the profit generated in the 12 month accounting period to 31 December 2024 by CCHC Fabrefit Ltd. There was no evidence before the Tribunal that went to establish that that company had generated a trading profit in the accounting period in question. On the other hand such evidence as was before the Tribunal and which the claimant was not in a position to contradict, tended to show that that company traded at a loss in the relevant accounting period and thus, let it be assumed that the claimant had discharged his burden of proof in respect of all other matters, which the Tribunal has not held he has done, he having failed to establish that any profit had been generated no entitlement in law to own a bonus of the type asserted by him would have been established.
98. On the evidence presented, submissions made and for the reasons set out above the Tribunal concludes that the claimant's complaints of unauthorised deduction from wages fail and are hereby dismissed.

**Employment Judge: J G d'Inverno**  
**Date of Judgment: 1 April 2026**  
**Entered in register: 7 April 2026**  
**and copied to parties**