



EMPLOYMENT TRIBUNALS

Claimant: William Sutton

Respondent: Ashfields Restaurants (Earl Shilton) Ltd

Heard at: Leicester

On: 10 August 2026

Before: Employment Judge Welch

REPRESENTATION:

Claimant: In person, supported by Mr C Hunt, his uncle

Respondent: Mrs S Ward, director

JUDGMENT

Written Itemised Pay Statements

1. The respondent failed to give the claimant written itemised pay statements as required by section 8 Employment Rights Act 1996 for the duration of his employment.
2. No award is made in respect of unnotified deductions.

Holiday Pay

3. The complaint in respect of holiday pay is dismissed upon withdrawal.

Unlawful deductions from wages

4. The complaint of unauthorised deductions from wages is not well-founded and is dismissed.

Failure to provide a written statement of employment particulars

5. When the proceedings were begun the respondent was not in breach of its duty to provide the claimant with a written statement of employment particulars or statement of changes.

REASONS

1. This claim was brought by the claimant against his former employer on 4 February 2026 following a period of early conciliation from 9 January 2026 to 13 January 2026.
2. The claim was initially brought for failure to pay the national minimum wage, unlawful deductions from wages, holiday pay and whistleblowing (public interest detriment).
3. The complaint of whistleblowing detriment was rejected on 14 April 2026 due to there being no grounds for that complaint within the claim form, and therefore it was not in a form which could be sensibly responded to. The remaining claims proceeded to today's hearing.
4. Standard case management orders were sent to the parties on 14 April 2026.
5. The parties attended the Leicester Tribunal for the hearing. The respondent had provided a bundle of documents, which I shall reference [RX] in this Judgment. They had also provided witness statements for 9 witnesses. The claimant provided a supplemental bundle which I shall reference [CX] in this Judgment. The claimant provided witness statements for two witnesses (including himself).
6. One of the claimant's witnesses (Mrs Carter, his mother) did not attend the hearing to give sworn evidence. Three of the respondent's witnesses, namely Sean Barkes, Briony Allen and Ruth Hastie also did not attend the hearing to give sworn evidence. The parties were told that the witness statements of those not attending the hearing would be given such weight as was appropriate in light of the statements not being sworn evidence and not being tested by questioning from the other side and myself.
7. I therefore heard evidence from the claimant in person, and for the respondent I heard evidence from:
 - a. Adam Ward, director;
 - b. Poppy-Rose Farren, currently restaurant supervisor;
 - c. Mason Osborne, external content creator;
 - d. Stacey Ward, director;
 - e. Finley Field, barman/ waiter; and

- f. Flynn Bennett, now chief kitchen porter.
8. The witnesses gave sworn evidence and were cross examined by the other side, and I asked some additional questions.
 9. I found all witnesses to be credible, save that the claimant on being questioned about who had sent his resignation letter, was not consistent in the evidence he gave.

Findings of fact

10. The claimant was initially employed by the respondent as a waiter, from 12 July 2021 on a zero hours contract whilst still a student. He was provided with and signed a statement of main terms of employment [C28-29].
11. The claimant had a close relationship with Mr and Mrs Ward, the directors of the respondent. Mr and Mrs Ward's evidence was that they loved him and that he was classed as family and not just a friend/ employee. The claimant went fishing with Mr Ward outside of working hours and had, on at least one occasion, house sat for Mr and Mrs Ward when they were on holiday. I am therefore satisfied that there was a close personal relationship between Mr and Mrs Ward of the respondent and the claimant in addition to their working relationship. The claimant suggested that he had been "financially groomed" by the respondent but I do not find that to be the case.
12. The claimant continued to work for the respondent whilst commencing studies at University. The claimant subsequently left university but continued working for the respondent.
13. From around 23 March 2025, the claimant moved onto a salaried contract. The claimant's evidence was that there was no verbal agreement entered into, but Mrs Ward's evidence, which I accept, was that there was a discussion between Mrs Ward and the claimant about his role going forward. I find that there was a discussion about his new role, including his salary and hours of work. It was agreed that he would become a junior manager in the respondent's organisation for which he would be provided a salaried 30 hour contract.
14. Mrs Ward's evidence was that the claimant was provided with a written contract of employment [R22-25]. The original contract could not be located following the claimant's resignation. However, Mrs Ward's evidence was that this contract had been misfiled and was ultimately found. The claimant's evidence was that he had never been provided with, nor signed, a new contract of employment at the time he became salaried in March 2025. He asserted that the contract provided by the respondent was a "fraud/forgery", particularly as it did not have the claimant's usual signature on it. Rather, it had a written name as opposed to a signature. Mrs Ward's evidence was that she could not explain why it did not appear to be the claimant's signature but gave convincing evidence that the contract had been provided to the claimant and agreed with him.

15. I accept that the written contract [R22-25] was provided to the claimant, despite the lack of signature by him. The respondent in its ET3 response said that the contract could not be found but that it had been kept with other staff contracts in the filing cabinet, to which the claimant had access. I considered that the respondent's reaction to its failure to find the claimant's contract of employment, namely suggesting that the claimant may have taken it in its ET3 response, supports the fact that the respondent had provided the claimant with a written contract. The contract ultimately was located having been misfiled.
16. The claimant's contract was based on a 30 hour week, worked over 4 days (Thursday to Sunday). For this he was paid a gross salary of £16,000 per annum.
17. Prior to 1 May 2025, the respondent would be open from 12 noon to 2pm and 6 to 9pm on Thursdays to Saturdays and 12 noon to 4pm on Sunday (totalling 19 hours a week). Following the introduction of breakfast, brunch and lunch service from 1 May 2025, the restaurant was open from 9.30am to 2pm and 6 to 9pm on Thursdays to Saturdays, and 12 noon to 4pm on Sundays (totalling 26.5 hours a week). For five weeks from approximately mid July to the end of August 2025, a Sunday breakfast, brunch and lunch service was added to the respondent's opening hours so that Sundays opening hours were 9.30am to 4pm (totalling 29 hours a week).
18. The claimant parked his car in the public car park opposite the restaurant whilst at work. His car had a black box on it, which recorded when his car was in the car park.
19. Using the information from the black box, the claimant has calculated that he was underpaid for his working time, since he was paid less than the national minimum wage for the entire time during which his car was parked in the public car park.
20. The claimant's evidence was that he worked for the entire time that his car was parked in the public car park. He provided in his witness statement details of the tasks he was required to do, some of which he contended had to be done when the restaurant was closed.
21. The respondent's witnesses disputed some of the tasks that the claimant says he undertook. I am satisfied that the claimant did have a significant amount of responsibility, particularly when considering his age and experience. However, I do not accept that the claimant was required to work outside of the opening hours of the restaurant.
22. The respondent's evidence was that the claimant was not expected to work for every hour that the restaurant was notionally open for. I accept that to be the case and that on quiet days, the restaurant opened late and closed early.
23. All of the respondent's witnesses gave evidence that the claimant often referred to his unhappy home life and Mrs Ward's evidence was that the claimant considered work to be a safe haven for him.

24. The claimant often stayed at the restaurant before and after his shift had finished. The respondent's witness evidence, which I accept, was that he was not working for the entirety of the time he spent at the respondent's premises. I am satisfied that the claimant arrived earlier than his work commenced and very often completed his shift and could have left should he have wished to do so. However, he remained on site, sometimes to wait for his friend Flynn Bennett who, as pot washer at the time, was invariably one of the last to leave.
25. The respondent's evidence, which I accept, was that Mr Ward was regularly the last to leave the respondent's premises at the end of a shift, and whilst the claimant was often in attendance at that time, he had not been working but waiting to leave with his colleagues.
26. I am therefore unconvinced by the black box data from the claimant's car that these represent his hours of work. Rather, they represent the time that the claimant was close to or within the respondent's premises. I find that he was free to attend later and leave earlier than he chose to do, however this was not working time for which he needed to be paid the national minimum wage.
27. Unfortunately, the respondent kept no records of the claimant's hours of work something they are required to do under section 9 of the National Minimum Wage Act 1998. The claimant also did not keep a record of the hours he worked. The claimant was responsible for noting the hours worked by the hourly paid staff working in the respondent's restaurant, something which he totalled, along with the tip allocation for all staff. The claimant relied solely on his black box data, and for the reasons stated above, I am not satisfied that he was working throughout that time.
28. The claimant had inflated the tasks which he says he was responsible for when working as a junior manager within the respondent's business. It was apparent that colleagues would often assist one another, but I am not satisfied, and do not accept the claimant's evidence of the number of tasks which were his when working at the respondent. For example, I do not accept that Mrs Ward "offloaded" the cleaning duties to the claimant as he contended in his statement. The evidence from the other respondent witnesses disputed this and I am satisfied that Mrs Ward carried out the cleaning, other than having some assistance on occasions. Also, he referred to some tasks he undertook of an administrative nature which Mrs Ward did, for example online bookings, which were handled by Mrs Ward. Also, in paragraph 14 of his witness statement outlining the tasks he undertook, he refers to many of them being either "*outside of service hours*" or "*both inside and outside of service hours*". However, I accept Mr Ward's evidence that the claimant was never tasked to do work outside working/ opening hours.
29. The claimant raised no concerns about his employment whilst employed. He resigned by sending a message to Mr and Mrs Ward on 13 October 2025 [R36] saying, "*Adam and Stacey, This is my 4 weeks (sic) notice and my last working will be 9th November 2025. Kindest regards William Sutton.*"

30. The claimant's evidence was that he sent the resignation, however, his mother's statement said that his step father had sent it. Initially, the claimant when asked said that he had sent it, but then on being referred to his mother's written statement, apologised and said that his step father had in fact sent it.
31. The respondent was shocked at this resignation coming, in their view, out of the blue. Their evidence was that they were concerned over the claimant's mental health and attempted to find out whether he was alright.
32. The respondent accepted the claimant's resignation and offered him an exit interview so that they could understand why he was leaving. The claimant did not attend an exit interview.
33. The claimant did not return to work and sent in a fit note on 14 October 2025 [R37] which covered his entire notice period.
34. The claimant sent a grievance letter to the respondent following his resignation [C18-19] to which the respondent replied [C21-25].
35. The claimant referred to another of the respondent's staff, Charlotte, who the claimant contended held the same title and responsibilities as the claimant, but who was paid £15 an hour cash in hand. The claimant says he should have been paid the same as Charlotte since they were doing the same work. However, no such claim has been brought for this. I do not accept that the claimant was entitled to receive £15 an hour for the work he did. Providing pay is over the national minimum wage, and is not discriminatory, the amount of pay is a matter for agreement between the parties. Here, I am satisfied that the parties agreed a salary of £16,000 per annum for the 30 hours' work per week.

Submissions

36. The parties made oral submissions.
37. The respondent said that they were unaware of the claimant's unhappiness at work, no grievances had been brought. The claimants' witness statements were not factual. None were specific on dates or times. The black box data was just a list of times which can have been made on a computer. The proceedings had had a very detrimental effect on the respondent, including its staff as it had affected the whole business dynamic. The respondent denied all the allegations and had paid the claimant for every hour worked.
38. The claimant's submission was that the black box evidence had been obtained from a website and was not made up. This showed the hours spent at work. The list of responsibilities could not have been completed in service hours. The contract is believed to be fraudulent, fictitious and a forgery. The claimant had requested details of Charlotte's wage slips and contract and this had not been forthcoming. The claimant had been underpaid by £8,119.26. The claimant contended that there had been collusion in the drafting of the witness statements. The claimant had provided evidence of him being at work, that the contract was

fraudulent and that there had been collusion in the respondent's witness statements. The relationship evidenced by the respondent showed a manipulative rather than a supportive dynamic. The claimant had worked on average 46.2 hours a week over a 27 week period and this was being claimed.

Law

39. Section 9 of the National Minimum Wage Act 1998 (NMWA) provides:
"9 Duty of employers to keep records
For the purposes of this Act, the Secretary of State may by regulations make provision requiring employers—
(a) to keep, in such form and manner as may be prescribed, such records as may be prescribed; and
(b) to preserve those records for such period as may be prescribed."
40. Section 28 NMWA provides:
"28 Reversal of burden of proof
(1) Where in any civil proceedings any question arises as to whether an individual qualifies or qualified at any time for the national minimum wage, it shall be presumed that the individual qualifies or, as the case may be, qualified at that time for the national minimum wage unless the contrary is established.

(2) Where—
(a) a complaint is made—
(i) to an employment tribunal under section 23(1)(a) of the Employment Rights Act 1996 (unauthorised deductions from wages) ... and
(b) the complaint relates in whole or in part to the deduction of the amount described as additional remuneration in section 17(1) above,
it shall be presumed for the purposes of the complaint, so far as relating to the deduction of that amount, that the worker in question was remunerated at a rate less than the national minimum wage unless the contrary is established.

(3) Where in any civil proceedings a person seeks to recover on a claim in contract the amount described as additional remuneration in section 17(1) above, it shall be presumed for the purposes of the proceedings, so far as relating to that amount, that the worker in question was remunerated at a rate less than the national minimum wage unless the contrary is established."
41. Section 4 Employment Rights Act 1996 (ERA) provides:
"Statement of changes
(1) If, after the material date, there is a change in any of the matters particulars of which are required by sections 1 to 3 to be included or referred to in a statement under section 1, the employer shall give to [the worker] a written statement containing particulars of the change."
42. Section 8 ERA provides:
"8 Itemised pay statement
(1) [A worker] has the right to be given by his employer, at or before the time at which any payment of wages or salary is made to him, a written itemised pay statement."

43. Section 13 ERA provides:

“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.

...

(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.”

44. Section 23 ERA provides:

“23 Complaints to [employment tribunals]

(1) A worker may present a complaint to an [employment tribunal]—

(a) that his employer has made a deduction from his wages in contravention of section 13 (including a deduction made in contravention of that section as it applies by virtue of section 18(2))...”

Conclusion

45. I have considered the evidence of all of the witnesses, particularly those who attended the Tribunal, the documentary evidence provided by both parties, and

the submissions made by both parties before coming to the decision about this case.

46. The claimant has not convinced me that he was working for every hour that his car was in the public car park across from the respondent's restaurant. Whilst it may be the case that the claimant was in the restaurant, I am satisfied from the witness evidence, including that of Mr Osborne and Mr Bennett, that he regularly stayed behind after his work had completed to either have a drink or to sit whilst waiting for Mr Bennett to finish his tasks.
47. Therefore, even when considering the reversal of the burden of proof in national minimum wage cases, I am not satisfied that the claimant worked in excess of his contractual hours of 30. That being the case, the claimant received the national minimum wage for the hours he was contracted to work over 4 days. The fact that he stayed on the premises long after his shift had finished, does not entitle him to payment for that time.
48. I therefore find that there has been no unlawful deductions from wages in respect of the claimant's pay. He has been paid correctly. Whilst he was not paid for every hour that his car was in the public car park, he has not satisfied me that he worked all of those hours.
49. I do not award the claimant the difference between his pay and that of Charlotte's. There is no basis on which to do so.
50. The respondent failed to provide the claimant with payslips and therefore breached section 8 ERA. I make a declaration to that effect. When the claimant asked for his payslips, they were provided, although they should have been provided at the time of his pay.
51. The claimant confirmed in his evidence that the deductions made were correct, after receiving his payslips. I am therefore satisfied that whilst there were unnotified deductions from his pay in the 13 weeks preceding his application to the Tribunal, no real loss has been suffered and this was a technical breach only and so make no award in this respect.
52. As I do not find that the respondent was in breach of section 1 or section 4 ERA, since it provided a contract of employment on commencement of employment, and a further updated one following the changes in his status from hourly paid to salaried, I do not award any compensation in respect of this.
53. All claims are therefore dismissed and no remedy hearing is required.

Approved by:

Employment Judge Welch

Dated: 14 August 2026

Sent to the parties on

...12 September 2026.....

For the Employment Tribunal

...Elliot Barker.....

Notes

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions