



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case Number: 8001266/2026

Employment Judge J McCluskey

C Ross

Claimant

Viva Italia LTD

Respondent

JUDGMENT

Rule 22 of the Employment Tribunal Procedure Rules 2024

The judgment of the Employment Tribunal is that: the claimant's complaints of (1) unauthorised deductions from wages; (2) failure to provide a written statement of employment particulars; (3) breach of contract (notice pay); and (4) automatic unfair dismissal for making a protected disclosure succeed.

The respondent shall pay the claimant the sum of **£17,616.68** as set out in the reasons below. The claimant is responsible for the payment of any tax or National Insurance.

REASONS

1. A copy of the claim form setting out the claimant's complaints was sent to the respondent on 3 June 2026.
2. In accordance with the terms of rule 17 of the Employment Tribunal Procedure Rules 2024, the respondent was required to enter a response within twenty eight days of the date on which a copy of the claim was sent to it but failed to do so.

3. The Employment Judge decided that on the available material a determination could properly be made without a hearing as to the liability of the respondent for the claim and as to remedy.
4. On the basis of the available material the Employment Judge decided that remedy could be determined as follows:-
 - (a) In respect of the complaint of unauthorised deduction from wages the respondent shall pay to the claimant the sum of **£2,112.67** calculated as follows:
 - i. Unpaid salary (week ending 6 May 2026): £727.05
 - ii. Unpaid salary (week ending 13 May 2026): £814.52
 - iii. Unpaid tips/tronc: £205.72
 - iv. Accrued but unpaid holiday pay: £365.38
 - (b) In respect of the complaint of failure to provide a written statement of employment particulars the respondent shall pay the claimant the sum of **£3,004.00** calculated as follows as the claimant received no written statement of particulars in the relevant period:
 - i. Four weeks' gross pay pursuant to sections 38 and 39 Employment Act 2002. Weekly pay: £961.54 gross - capped at £751 x 4 weeks. There are no exceptional circumstances that make an award of an amount equal to two weeks' gross pay unjust or inequitable. It is just and equitable to make an award of an amount equal to four weeks' gross pay.
 - (c) In respect of the complaint of breach of contract (notice pay) the sum of **£4,166.67** calculated as follows:
 - i. 1 x month of gross wages. As General Manager, it was discussed verbally with the claimant that the role would carry one month's notice.
 - (d) In respect of the complaint of automatic unfair dismissal for making a protected disclosure the respondent shall pay to the claimant the sum of **£8,333.34** (two months gross salary) calculated as follows:
 - i. On 25 April 2026 the claimant made a protected disclosure. The claimant's employment was terminated on 14 May 2026. The reason for dismissal was that the claimant made the protected disclosure. The claimant was unemployed for over one month before obtaining alternative employment. This is at a lower salary of £39,000 per annum compared with the £50,000 salary the claimant was earning with the respondent.

Date sent to parties

30 July 2026