



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8003210/2025

Held in Dundee on 3 June 2026

Employment Judge S Cowen

Dr C Cairns

**Claimant
In Person**

First Alba Healthcare Limited

**Respondent
Represented by:
Dr Sarraf
(Company Director)**

RESERVED JUDGMENT OF THE EMPLOYMENT TRIBUNAL

1. The Claimant was a worker for the Respondent under s.230(3)(b) Employment Rights Act 1996 from 1 October 2024 to 22 December 2025.
2. The Claimant's claim for unpaid wages under s.13 Employment Rights Act 1996 succeeds.
3. The Respondent shall pay the Claimant **£14,381.21**

REASONS

Introduction

1. The Claimant represented himself, whilst the Respondent was represented by Dr Sarraf who is a company director. A bundle of productions was provided by the Claimant.
2. The Tribunal considered the evidence of the Claimant and Dr Sarraf before making a decision. The judgment was reserved due to the lack of time to complete deliberation in one day.

3. The issues to be decided were in relation to the Claimant's status in the workplace and whether he was owed any unpaid wages;
 - a. Was the Claimant an employee or worker under s. 230 ERA for the purposes of his claim for unlawful deduction of wages only,
 - b. If so, what payment was he entitled to
 - c. What payment did he receive
 - d. Is he owed any outstanding amount
4. Prior to the Claimant giving his evidence to the Tribunal he asked to refer to notes during his evidence. This was not opposed by the Respondent and the Claimant agreed to send a copy of the notes to the Respondent and the Tribunal.

The Facts

5. The Claimant entered into an agreement with Dr and Mrs Sarraf on 1 October 2024 to provide work as an associate dentist.
6. A written agreement, based on a British Dental Association template, which was not signed by the parties, showed that it was proposed that the Claimant agreed to work as a dentist in their practice. The agreement says that "nothing in the agreement shall constitute a contract of employment between the Practice Owner and the Associate". The Agreement went on to say that Dr Sarraf will provide premises and equipment, instruments etc, dental nurse, dental hygienist, reception, fee collection, administration services and IT, drugs and supplied and the use of a dental laboratory. Repairs and maintenance would also be the responsibility of the practice. Dr Sarraf believed that these were the terms which they were using.
7. The agreement also outlined that the Claimant would have his own professional indemnity policy, but would comply with the Practice Owner's policies and procedures as far as required to continue to provide NHS dentistry from the practice. It also indicated that the staff would be employed by the practice owner but that the Claimant would have clinical direction over them.
8. The agreement stated that the practice would collect all fees and then would pay the Claimant monthly for his share of the fees, less any expenses incurred.
9. The agreement stated that the practice owner may introduce patients to the Claimant, but he was under no obligation to treat them, nor could the practice

restrict the patients that the Claimant could treat. The fees could be set by the Claimant but he will “strive to follow the fees determined by the practice owner”.

10. If the Claimant was to be away from the practice for any time, or more than 30 days, the agreement said that he was to use his best endeavours to find a locum. However, if he could not do so, the practice could find a locum for him.
11. The Claimant indicated that the initial payment practice was to pay a daily fee. He also stated that his access to the premises was controlled as, although he was given keys, in April/May 2026 these were removed and the locks changed, in order to ensure that he could not treat patients out of hours.
12. The Claimant initially understood his role to be that of visiting dentist with special interest – undertaking complex procedures on two days per week. He was paid £500 per day and was also involved in staff training. His work was booked by the practice. He was employed elsewhere on other days.
13. In September 2024 the Claimant’s other job ceased and he worked 5 days per week for the Respondent, being paid £12,000 per month. This reduced to 4 days per week in February 2025, with salary decrease to £10,000 per month (the Claimant subsequently worked as a locum elsewhere on his day off).
14. In January 2025 the payment arrangement changed, by agreement with the Claimant, so that he was paid a share of the income generate. He was also then made to pay a share of the lab fees for any patient. The Claimant was not asked to provide invoices and never did. Nothing was put in writing and the agreement shown to the Tribunal was never finalised or signed by the parties. The Claimant initially believed that he was self- employed, but as deductions were made and his access to the premises were removed, he considered that he did not have the autonomy of self employment. He was not allowed to treat family members out of hours for free, but had to seek permission to carry out such treatment and would have money deducted for these appointments. He also requested payment for treating patients whose treatment had failed. He would let the management know the work had been done and believed that he would be paid for this work, by the practice.
15. There were a number of issues over the pricing structure, including the Claimant being told in February 2025 to follow the pre-advised price structure. There was a meeting in June 2025 about these issues.

16. These issues came to a head in October 2025 when the Claimant was not paid for September 2025. At this point he became absent as sick due to stress, although he was able to continue working at his locum position on a Friday, due to the fact that this was not the source of his stress.
17. The Claimant provided sick notes but was not paid in November or December and was told this was due to the fact that the Respondent had been forced to hire a locum. However, there was no concluded agreement between the parties that the Claimant would be charged for a locum if he were too ill to work. The Respondent accepted that the Claimant was paid for holiday time.
18. There was a dispute about various payments which were deducted from the Claimant, including those in relation to work which was fixing failed treatment by another dentist. The Claimant was not paid for this work. The Respondent accepted that it was not discussed, as it was difficult to reach the Claimant to discuss.
19. The Respondent carried out an audit of the Claimant's work done in October-December 2024. The Respondent stated that the Claimant had been made an overpayment, in order to cover his upcoming tax liabilities. They therefore said that the overpayment was being reclaimed against the money earned in September 2025. The Claimant did not agree to this and contacted ACAS.
20. The Claimant thought at the time that he was self employed and not entitled to sick pay, so did not request it. On reflection his evidence was that he now considers that he was a worker.
21. After raising disputes with the Respondent, the Claimant did not receive what he believed to be a satisfactory response and was not paid the amount he considered was owed. He was signed off as sick on 4 November 2025 and resigned on 22 December 2025.
22. The Claimant claims the amounts he has set out in his schedule of loss. The Respondent disagreed and asserted that deductions had to be made for remedial works which were required after the Claimant left. The Claimant pointed out that there was no agreement for any retention fee and he had never been contacted about any remedial work.
23. The Respondent's evidence was that they were not clear about the amounts claimed by the Claimant as had not yet finalised their views, but that the Claimant probably owed them money. The bundle provided by the Claimant included an audit carried out by the Respondent which replied to the alleged underpayments and dismissed them all.

The Law

24. *S.230 Employment Rights Act*

“(1)In this Act “employee” means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment.

(2)In this Act “contract of employment” means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing.

(3)In this Act “worker” (except in the phrases “shop worker” and “betting worker”) means an individual who has entered into or works under (or, where the employment has ceased, worked under)—

(a)a contract of employment, or

(b)any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual;

and any reference to a worker’s contract shall be construed accordingly.

(4)In this Act “employer”, in relation to an employee or a worker, means the person by whom the employee or worker is (or, where the employment has ceased, was) employed.

(5)In this Act “employment”—

(a)in relation to an employee, means (except for the purposes of section 171) employment under a contract of employment, and

*(b)in relation to a worker, means employment under his contract;
and “employed” shall be construed accordingly.”*

25. **S.13 ERA:**

“(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.”

26. In order for the Claimant to claim unlawful deduction of wages under s.13 ERA, he would need to be classed as an employee or a ‘worker’, as defined in s.230 ERA.
27. A worker is set out in s.230(3)(b) as an individual who works under a contract (other than a contract of employment) which includes personal service, whose status is not that of a client or customer of any profession carried on by the individual. It is therefore for the Tribunal to determine whether the contract includes the elements which make it one of a ‘limb b worker’.
28. *Sejpal v Rodericks Dental Ltd* 2022 ICR 1339, EAT, showed that there are a number of general principles which the case law is bringing together;
 - a. Firstly, the starting point is the statute.
 - b. A worker contract includes; a) a contract where an individual undertakes to perform work/service for another, b) that they will do so personally (not just organise others to do so) and c) that they are not merely a client/customer of the individual.
 - c. To consider whether a person is a worker is to look beyond any contractual agreement
 - d. The facts must be viewed realistically and keep in mind the protection of vulnerable individuals who are subordinate and dependant in a relationship of work.
 - e. The tribunal must look for the true agreement between the parties, and
 - f. Take into account the bargaining power of the parties, and remember that the documentation may not reflect the reality.

Law on Contract

29. To be a concluded contract “all the essentials have to be settled. What are the essentials may vary according to the particular contract under consideration.” [May & Butcher Ltd v R. \(1929\)](#), noted at [1934] 2 K.B. 17 at 21
30. An offer must be communicated to the offeree before it has legal effect. If a committee resolve a course of action, but this decision is not communicated to the offeree then no offer has been made. This is because there must be ‘consensus ad idem’ (agreement) which cannot occur if the offeree is not aware of the offer.
31. Acceptance of an offer may be inferred from conduct; see [Budge v Donald](#) 2002 SLT (ShCt) 18 and. [G. Percy Trentham Ltd v Archital Luxfer Ltd \[1993\] 1 Lloyd’s Rep. 25](#).
Whether the inference is justified is a matter of fact. If both parties act as though they are bound, then that completes the contract. An employee may accept terms of employment by continuing to work and without having signed a written acknowledgement of the terms; [SOS Bureau Ltd v Payne](#) 1982, SLT (Ch.Ct.) 33
32. It is said that if the offeree knew of the offer and their actions amount to performance of the contract, a natural inference may bar denial of the existence of a contract, unless there is another reasonable interpretation of the action.
33. In order for there to be a contract the offeree must accept all the terms of the offer. Accepting only some of the terms does not lead to a concluded contract.

Decision**Employee or Worker Status**

34. The Claimant started working for the Respondent on 1 October 2024. The agreement between them was for the Claimant to work as a visiting dentist. He was paid a day rate and worked for the Respondent for 4 days a week.
35. The work (patients), premises, equipment and support staff were provided by the Respondent. The Claimant was had clinical control over the work he did (i.e. made his own decisions on the treatment to be given), but the work was organised and controlled by the Respondent, who controlled the payment and passed a day rate to the Claimant. The Claimant was obliged to follow the Respondent’s rules within the practice and did so
36. At the start of this arrangement, the Claimant also agreed that he could treat members of his own family (for reduced or nil fees) during the working day.

No objection was raised to this initially and the Claimant was given a set of keys for the practice, in order that he could work at times when there were not other staff present.

37. Whilst this was not reduced to a signed agreement, it is clear that both parties agreed to these terms and conditions, considered them to be the terms covering their arrangement and continued to abide by them. The Claimant carried out the work as agreed and the Respondent paid him in accordance with the agreement. The Tribunal therefore concluded that there was an agreement for the Claimant to work for the Respondent practice.
38. The evidence of the parties indicates that at the start of the agreement the Claimant did not consider himself to be employed by the Respondent. He worked elsewhere on Fridays and provided his services to the Respondent's practice in return for payment.
39. The Tribunal was of the view that the Claimant was however, not truly self – employed, his work for the Respondent amounted to s.230 ERA 'limb b' worker status. This is based on the fact that the Claimant was an integral part of the Respondent's business. His contract was for personal service, and he did not conduct a business such that the Respondent was a client or customer. It was clear that the Respondent was the Claimant's main source of work and income and that the Respondent saw the Claimant as a key part of the services which they provided to their customers. Furthermore, the Claimant earned a flat rate for the work carried out, he did not receive payment based on the work done, as he would have done in his own practice.
40. The Tribunal concluded that the fact that the Claimant had to carry out the work himself and that the responsibility for finding a replacement was shared between the parties initially, also indicated that the Claimant was not merely arranging for the work to be done as a self-employed contractor. Furthermore, by September 2024, the Claimant was working exclusively for the Respondent.
41. If for any reason, the Tribunal is wrong about this status from the beginning of the relationship, the Tribunal in any event found that from 1 January 2025, when the financial arrangement between the parties altered, the Claimant was a worker under s.230 ERA. The Tribunal rely on all the points set out above, save for the fact that the payment arrangement altered and shortly after that the Respondent stopped the Claimant from being able to enter the premises except in work hours and refused to allow him to treat members of his family except in regular appointments.

42. This increased level of control by the Respondent and the fact that they took on responsibility for replacing the Claimant when he was sick or unable to work, both indicate a worker status.
43. The change in payment terms in January 2025 did not detract from the worker status of the Claimant. The parties agreed to terms on which the Claimant would be paid a share of the profit on each piece of work, less expenses incurred by the practice. This was seen at the time, to be a way of sharing the profit of the business with the Claimant, rather than a means of distancing him from the business itself.
44. It is the concluded decision of the Tribunal that the Claimant was a s.230 worker for the purposes of the Employment Rights Act 1996.

Wages

45. Prior to January 2025 the Claimant was being paid a set amount less fees which were agreed. It seems that the Respondent has failed to make some payments to the Claimant. The Respondent offered no evidence in relation to these amounts, indicating that it was still looking into the situation. The Tribunal considered this to be an unsatisfactory position, given that the parties had been on notice of the hearing since 4 February 2026 (for a hearing in May 2026, which was postponed to 3 June 2026).
46. The Respondent had had sufficient time to prepare for the hearing and the manner in which the hearing was conducted by Dr Sarraf lacked the appropriate preparation. Despite an explanation being given to him by the Tribunal and repeated during the hearing, Dr Sarraf appeared to fail to understand that the hearing was the final opportunity to put the Respondent's case forward. His nonchalant and reluctant attitude indicated a lack of care for the Claimant's claim, or ensuring that the Respondent's legal obligations were honoured.
47. The Tribunal consider that as of 1 January 2025 there was a concluded agreement between the parties that the Claimant would work for a share of the profit (50% less lab fees). These were the wages which were agreed between the parties. It was the responsibility of the Respondent to keep a record of the work done, the payments received, the cost of lab fees and therefore to calculate the amount to be paid to the Claimant.
48. Unfortunately, there appears to have been a breakdown in trust as the Claimant raised concerns throughout 2025 that the payments he was receiving were incorrect. The Claimant, who was not required to invoice the

Respondent, claimed that he was not being paid in accordance with the work done. This was contested by the Respondent, but no resolution was found. The Claimant raised a grievance about this and other matters, which was not upheld. The Respondent asserted in an audit that all payments had been made and that the Claimant had to prove any discrepancy.

49. The Claimant provided a Schedule of Loss which used historic information to calculate losses. The Claimant provided a schedule of the deductions and payments which he asserted were owed, setting out details of some patients and a list of incorrect or missed payments. He also set out the lab fees which he says have been incorrectly deducted.
50. He also listed a number of items of work, including appointment dates, which he asserted had not been paid. It seems that this included work which the Claimant had undertaken on behalf of the Respondent (at their instruction) to rectify the work of a previous dentist in the practice, as per an agreement to do so which was not challenged.
51. The conclusion of the Tribunal was that the Claimant had listed the amounts and sources of the payments he claimed were owed. The Respondent has failed to challenge or to show that such payments were either not owed, or had already been paid.
52. The Tribunal therefore concluded that the Claimant is owed £6,047.88 in unpaid earnings prior to October 2025, plus a further £8,333.33 gross for October 2025.
53. The Respondent must pay the Claimant £14,381.21.

Date sent to parties
18 August 2026