



**EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 4103440/2018**

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**Held in Glasgow on 5 October 2018**

**Employment Judge: Ian McPherson**

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**Miss Toni Taylor**

**Claimant  
Represented by:  
Ms Louise Jones -  
Solicitor**

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**EK Burger Ltd.**

**Respondent  
Not present and  
Not represented**

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**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The Judgment of the Employment Tribunal is that:

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1. The respondents having failed to appear, or to be represented, at this Final Hearing, the Tribunal proceeded in their absence, the claimant and her solicitor being in attendance and ready to proceed, and on the basis of the Tribunal considering the available information, in terms of **Rule 47 of the Employment Tribunal Rules of Procedure 2013**, held on the Tribunal's casefile.

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2. Having heard from the claimant and her solicitor, and considered documents lodged by them with the Tribunal, the Tribunal finds that the claimant's complaint of unlawful deductions from wages, contrary to **Section 13 of the Employment Rights Act 1996**, is well founded and the respondents are **ordered** to pay the sum of **ONE THOUSAND POUNDS (£1,000)** being the balance outstanding to the claimant from the agreed sum due to her of

£4,753.02, less payments to account received from the respondents to date of this Hearing.

3. The claimant's complaint that the respondents, except for pay statements dated 27 August 2017 and 23 October 2017, failed to provide her with an itemised pay statement throughout her period of employment with them, between 26 June 2017 and 8 December 2017, in breach of **Section 8 of the Employment Rights Act 1996**, is also well founded, and the Tribunal makes this declaration to that effect, in terms of **Section 12(3)**, but there is no monetary award for those repeated failures.
4. Finally, noting from the claimant's solicitor that the respondents are the subject of a pending application at Companies House to strike the company off the Register, and that the claimant objects to their dissolution, prior to payment to her of the award of **£1,000** made in this Judgment, the Tribunal **directs** the clerk to the Tribunal to copy this Judgment to the Registrar of Companies for such action, in the public interest, as the Registrar considers appropriate, in light of the respondents' alleged failure to intimate their strike off application to the claimant, albeit she is a known creditor.

20 **REASONS**

1. This case called before me on the morning of Friday, 5 October 2018, at 10.00am, for a Final Hearing, as per Notice of Final Hearing issued to both parties under cover of a letter from the Tribunal dated 7 September 2018, issued on instructions from Employment Judge Claire McManus, following a letter of 23 August 2018 from the claimant's solicitor, Ms. Louise Jones, from MacNair & Wilson, Glasgow, seeking to have the case relisted following the respondents' failure to adhere to an agreed instalment settlement plan between the parties.
2. This Hearing followed upon an earlier Final Hearing heard by Employment Judge Claire McManus, on 1 June 2018, where the claimant appeared with her solicitor, Ms. Jones, and the respondents were represented by their Mr.

Allan Lessani , accompanied by his accountant, Mr. Richard Beattie, from RGB Accountants, Glasgow. By letter to the Tribunal, dated 29 May 2018, Mr. Beattie, assisting the respondents, rather than representing them, advised the Tribunal that the respondents did not deny the debt owing to the claimant, and that they were making payments to her to settle the balance still outstanding to her.

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3. That earlier Hearing was postponed by Judge McManus, on the basis that parties had agreed settlement of the balance of monies owed by the respondents to the claimant, then agreed at £2,600 outstanding, and an instalment plan over a period. Judge McManus sisted the case for settlement, but no formal Order and Note by the Tribunal was issued to parties, just a file note on the Tribunal casefile.

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4. At this Hearing, Ms. Jones, the claimant's solicitor, sought Judgment from the Tribunal in favour of her client. She further stated that the claimant understood that the respondents' business was still running in the same premises as the claimant used to work in, and, following a Companies House search earlier this morning, she had discovered that, on 25 September 2018, the Registrar of Companies gave notice that, unless cause is shown to the contrary, at the expiry of two months from that date, the company will be struck off and dissolved.

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5. Ms. Jones further advised that, on the claimant's behalf, she will be objecting to that strike off application forthwith, and she further advised that the claimant had received no intimation of the Strike Off application (DS01) submitted on that company's behalf, despite the claimant being a known creditor. Finally, she advised me that she had advised the claimant that she has other potential remedies open to her, for example seeking director disqualification of the company directors, and reporting them to the police about a potential criminal offence, for failure to intimate to her, as a creditor, the Strike Off application (DS01).

6. On the matter of recent correspondence to the claimant, from HMRC, dated 27 September 2018, regarding the claimant's PAYE record with the respondents, and the respondents' remittances or not to HMRC for tax and NI, as shown on the two pay advices provided to her by the respondents, the matter of any tax payable by, or refundable to, the claimant is a matter outwith the jurisdiction of this Tribunal, and the claimant should address directly with HMRC any issues she still has in that regard.

10 Employment Judge: Ian McPherson  
Date of Judgment: 08 October 2018  
Entered in register: 11 October 2018  
and copied to parties