



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss L Kee

**Respondent:** Whitbread Group PLC

**HELD AT:** Manchester

**ON:**

25 October 2019

**BEFORE:** Employment Judge Franey (sitting alone)

**REPRESENTATION:**

**Claimant:** Did not attend

**Respondent:** Mr A Powis (Trainee Solicitor)

## JUDGMENT

The complaint of unlawful deductions from pay fails and is dismissed.

## REASONS

1. This was a claim that the respondent had made unlawful deductions from the claimant's pay by failing to pay her statutory sick pay ("SSP") during two periods of absence on sick leave in 2019 (26 April – 16 May and 2 – 31 July).
2. The respondent disputed that the claimant was entitled to SSP during those periods.
3. An employment tribunal is not empowered to resolve such disputes under Part II of the Employment Rights Act 1996. It is for HMRC to resolve that under the provisions of the social security legislation, which incorporate a separate right of appeal. This has been confirmed by the Employment Appeal Tribunal in **Taylor Gordon & Co Ltd v Timmons [2004] IRLR 180** and **Sarti (Sauchiehall Street) Ltd v Polito [2008] ICR 1279**.

4. The claim is therefore dismissed.

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Employment Judge Franey

25 October 2019

JUDGMENT AND REASONS SENT TO THE PARTIES ON

29 October 2019

FOR THE TRIBUNAL OFFICE

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