



EMPLOYMENT TRIBUNALS

Claimant: Ms Juliet Linsley

Respondent: Spire Kool Limited

RULE 21 JUDGMENT

Employment Tribunals Rules of Procedure 2013

1. The Claimant's claim for unlawful deduction from wages contrary to s 13 of the Employment Rights Act 1996 (ERA 1996) in respect of unpaid wages is well-founded. The Respondent unlawfully deducted a total of £15,385.63, comprising £14,072.73 unpaid wages, £1,312.90 holiday pay.
2. The Respondent breached an oral contract with the Claimant to pay two weeks' wages (£1,312.92) as compensation for late payment of salaries.
3. The Respondent must pay the Claimant the total of £16,698.55 **within 14 days** of the date this judgment is sent to the parties.

REASONS

Background

1. The Claimant was employed by the Respondent from 24 October 2018 to 8 May 2019 when she resigned on notice because the Respondent had not regularly paid her wages. There was a period of ACAS Early Conciliation between 10 May and 23 May 2019. The Claimant's claim was received by the Tribunal on 28 May 2019.
2. The claim was served on the Respondent at the address given in the claim form (Central Court, 2.17, 25 Southampton Buildings, London WC2A 1AL) on 30 August 2019. The Claimant subsequently informed the Tribunal that office had closed and so the claim was re-served on the Respondent at its registered office address (Gadd House, Arcadia avenue, London N3 2JU) by letter of 10 October 2019. Information on Companies House confirms

that this remains the Respondent's registered office and that the Respondent remains an extant company.

3. No response to the claim has been received.
4. The Claimant was invited by letter of 18 October 2019 to send to the Tribunal a remedy statement setting out what she claims and how it is calculated.
5. I am satisfied that there is sufficient information in the claim form and the remedy statement to support the claim to the extent set out in this judgment and, pursuant to rule 21(2), I give judgment accordingly.

Unpaid wages

6. The Claimant's employment lasted 28 weeks, but the Claimant states and, in the absence of a response from the Respondent I accept, she was only paid £1,808.15 on 11 December 2018, £1,300 on 1 March 2019 and £1,200 on 15 March 2019 (total £4,308.15). Her net salary was £656.46 per week and so should have amounted to £18,380.88 over the period of her employment. In total, £14,072.73 has been unlawfully deducted from her wages contrary to s 13 ERA 1996.
7. The Claimant further claims that as at the termination of her employment she had 10 days of accrued but untaken holiday pay to which she was entitled to payment under reg 14(2) of the Working Time Regulations 1998 (WTR 1998), amounting to £1,312.90. This amount was not paid and was therefore also unlawfully deducted from her wages contrary to s 13 ERA 1996.

Breach of contract

8. The Claimant claims, and I accept, that she had an oral agreement with the Respondent (specifically with Jeff Kirby, CEO) for two weeks' pay as compensation for late payment of salaries. In breach of that contract, this was not paid and the Claimant is entitled to damages of £1,312.92 for that breach of contract.
9. I classify this claim as a breach of contract claim rather than a claim for unlawful deduction from wages because there is insufficient information before me to determine whether this was a sum that was payable on a particular occasion as required by s 13(3) ERA 1996 for an unlawful deductions from wages claim.

Other matters

10. The Claimant also claims for losses consequent upon her seeking alternative employment. These are losses that flow from the termination of

her employment and are not recoverable in a claim for unlawful deduction of wages/breach of contract.

11. The Claimant further claims she has suffered losses consequent upon salary payments having been made late. However, these losses are not quantified and no order can be made in respect of them. In any event it is likely that the compensation payment already agreed by the Respondent would need to be set off against any such losses (see s 25(3) ERA 1996).

Employment Judge Stout

8 January 2020

JUDGMENT SENT TO THE PARTIES ON

10 January 2020

.....
FOR THE TRIBUNAL OFFICE