



EMPLOYMENT TRIBUNALS

Claimant: Mr L Westerman

Respondent: TS Travel Group Ltd

Heard at: Leeds by CVP

On: 3 November 2021

Before: Employment Judge Maidment

Representation

Claimant: In person

Respondent: Did not attend

JUDGMENT

The respondent made an unauthorised deduction in respect of basic wages of £703.89 and in respect of accrued but untaken holiday entitlement of £374.22. The respondent is therefore ordered to pay to the claimant the gross sum of £1,078.11.

REASONS

The respondent emailed the tribunal at 9.58am requesting a postponement of this hearing which had been listed to commence at 2pm. Instructions were given to refuse the postponement in the terms set out below:

“The parties were notified of this hearing on 8 September and the application for a postponement is made only 4 hours before the hearing is to commence. The tribunal hearing must take precedence over other (unspecified) business commitments....”

It appears that the directions of this Employment Judge were not actioned. A further email was received from Mr Singh of the respondent at 11.20am saying that he drove the respondent’s buses as well as being one of its directors and intimating that that was the reason for his inability to attend today.

The tribunal did not consider the circumstances to be such as would justify the granting of a postponement. The respondent has not attended today’s hearing in circumstances where no postponement request has been granted. It was therefore

considered appropriate to continue with the hearing and to hear the claimant's case.

The claimant has shown to the tribunal a payslip setting out the amounts referred to in the tribunal's above Judgment which he says were the final monies due to him but withheld. From the claimant's grounds of complaint and the respondent's response, it is clear that the failure to pay arose out of damage to a vehicle caused by an accident in which the claimant was involved.

The claimant's evidence, which the tribunal accepts, is that whilst he was presented with a written contract of employment when he commenced his employment, this did not refer to any right to deduct monies in respect of damage caused to vehicles. There was reference only to the recovery of overpayments. He says that only after the accident occurred was he effectively made to sign an agreement that he would pay for the damage out of his wages. He told the tribunal that he felt under duress.

The respondent's response in this matter indeed is corroborative of the claimant signing a document providing for the reimbursement by the claimant of the respondent's expenses arising out of the accident, after the accident occurred.

It is unnecessary for the tribunal to determine whether a valid agreement was entered into by the claimant following the accident on the basis of any alleged duress.

In accordance with Section 13(6) of the Employment Rights Act 1996, an agreement or consent signified by a worker does not operate to authorise the making of a deduction on account of any conduct of the worker, or any other event occurring, before the agreement or consent was signified. Any authorisation given by the claimant in the above circumstances is caught by this provision. There was therefore no effective consent or agreement to the making of the deductions. The deductions made were unauthorised.

Employment Judge Maidment

Date 3 November 2021