



EMPLOYMENT TRIBUNALS

Claimant: Mr C Graham

Respondent: Lenzing Fibres Grimsby Ltd

Heard at: Nottingham

On: 8 July 2021

Before: Employment Judge Flint (sitting alone)

Representation

Claimant: In person

Respondent: Mr Dodds (HR Manager of Respondent)

JUDGMENT

- 1) The claim for unauthorised deduction from wages is dismissed.

REASONS

- 2) This hearing was conducted remotely (by cloud video platform) with the consent of the parties.
- 3) In summary, the Claimant was claiming £1589.48. This sum was the amount deducted from the Claimant's final salary payment by the Respondent. It was agreed between the parties that the Claimant's employment started on 23 September 2019 and finished on 27 November 2020 by reason of the Claimant's resignation. It was also agreed that the Claimant had received a relocation expense payment from the Respondent of £3178.97. This was to assist him in relocating from Northern Ireland to the Grimsby area of England. The issue for me to decide was whether the Respondent was entitled to recover 50% of this payment in accordance with its Relocation Policy.
- 4) The Respondent defended the claim in its entirety. Whilst it accepted that the Relocation Policy document was not provided at the time that the Claimant entered into the employment contract, it argued that the letter of appointment clearly stipulated that a repayment clause would apply. It further stated that the Relocation Policy was readily available and its terms were reasonable and fair.
- 5) The Claimant's position was that the Respondent never confirmed the repayment clause mentioned in the letter of appointment, nor did the Respondent provide a copy of the Relocation Policy until December 2020. The Claimant further stated he would not have entered into the contract of employment if he had known the terms of the Relocation Policy.

Case No: 2600046/2021

- 6) Before today's hearing, this claim had been identified by the Tribunal as one made under section 13 of the Employment Rights Act 1996. This provides statutory protection to employees from deductions to their wages. However, it was apparent today that the deduction in this case was exempt (as defined in section 14) from such protection because it was made in respect of an overpayment of expenses. As a consequence, the Claimant had no protection under the Employment Rights Act 1996.
- 7) I went on to consider whether there had been a breach of contract by the Respondent by virtue of the deduction. In considering the evidence I made the following findings of fact: a) the Respondent did not provide a copy of the Relocation Policy to the Claimant until December 2020; b) The Policy was readily available in electronic and hard copy at any time to the Claimant upon his request; c) The Claimant applied for and received a relocation expense payment of £3178.97 in the knowledge that a repayment clause would apply; d) the Claimant did not request the details of the repayment clause nor did he proffer his own terms upon which he accepted the payment; e) the repayment clause set out at section 9 of the Relocation Policy was fair and reasonable.
- 8) In conclusion I was satisfied that the repayment clause formed part of the contract between the Respondent and the Claimant and that the Respondent was therefore entitled to deduct £1589.48 from the Claimant's final salary payment.

Employment Judge Flint

Date: 8/7/2021

JUDGMENT & REASONS SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE