



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms A Popa

**Respondent:** St Michael's Domiciliary Care Limited

**Heard at:** London South Employment Tribunal by video hearing

**On:** 12 January 2022

**Before:** Employment Judge Robinson

## **Representation**

Claimant: Did not attend

Respondent: Mr Balwinder Khaira, owner

# JUDGMENT

The judgment of the Tribunal is that:

1. The name of the respondent is amended to St Michael's Domiciliary Care Limited.
2. The claims of the claimant are dismissed.

# REASONS

## **The name of the respondent**

1. The claimant had named the respondent as "St Michaels". The respondent explained that he was the owner of St Michael's Domiciliary Care Limited, for whom the claimant had been a care worker for six months. The respondent was content for the Tribunal to order the name of the respondent to be amended accordingly.

## **Claims**

2. The claimant's claim was set out in a short paragraph in the claim form. It referred to claims for:
  - a. Reimbursement of bus fares for commuting to and from work (an unspecified amount),

- b. Repayment of a loan of £12 given to the respondent's driver for fuel,
- c. 5 hours' of work that was not paid,
- d. Holiday pay (an unspecified amount),
- e. Unauthorised deductions from wages, totalling £550 in October and November 2020.

### **Procedure**

- 3. On 18 August 2021, Employment Judge Tsamados issued a Case Management Order ("the CMO") stating that the case would be listed for three hours. The parties were informed that same day that the hearing would take place at 10am on 12 January 2022.
- 4. The CMO also required both parties to provide certain information within specific timeframes. For example, the claimant was required to set out, within four weeks of the date of the Order, the remedy being sought, together with evidence and documentation to support the claim.
- 5. On 11 January 2022, at 4.16pm, the claimant contacted the Tribunal to say that she was on holiday until the end of March 2022 and to request a postponement of the hearing. At 4.34pm that same day, the Tribunal office informed the claimant that the request for postponement was refused.
- 6. At 10am on 12 January 2022, the Tribunal office emailed the claimant and phoned her but received no answer. The hearing then commenced with only the respondent in attendance.

### **Fact findings**

- 7. The claimant:
  - a. had been informed that her request for a postponement had been refused,
  - b. did not attend the hearing despite reasonable attempts by the Tribunal to contact her,
  - c. made no attempt to comply with any of the requirements of the CMO.
- 8. Mr Kaira, the owner of St Michael's Domiciliary Care Limited, gave evidence that the claimant had worked for the respondent. He provided copies of shifts the claimant had worked and payslips. The Tribunal accepts the respondent's evidence in relation to each of the claims as follows.
  - a. The claimant was not entitled to travel costs, therefore her choice of commuting to work by bus was an expense for her to bear.
  - b. The respondent's driver denied taking a loan from the claimant but, even if he had, this would be a sum that the claimant should seek to recover from the driver directly.

- c. The claimant was paid for the all of the shifts as set out in the documentary evidence submitted to the Tribunal of shifts worked and payslips provided to the claimant.
- d. The claimant was not entitled to holiday pay because her hourly rate of pay of £9.25 (an increase on the basic rate) factored in holiday pay.
- e. The deductions in October and November 2020 were PAYE deductions for the purposes of HMRC.

## **Law**

### Unauthorised deductions from wages

9. Section 13(1) of the Employment Rights Act 1996 provides that an employer shall not make a deduction from wages of a worker employed by him unless the deduction is required or authorised to be made by virtue of a statutory provision, such as income tax.

## **Conclusion**

10. The burden of proof is on the claimant to set out the bases for the claims. The claimant has failed to do so.
11. The claimant has also failed to provide any justification for failing to comply with the CMO, and no reasonable explanation for failing to attend on the day of the hearing.
12. The respondent produced compelling written and oral evidence to refute the claims that were set out (albeit briefly) in the claim form.
13. For these reasons, the claimant's claims are dismissed.

---

Employment Judge **Robinson**  
Date: 17 January 2022

Sent to the parties on  
Date: 24 January 2022