



EMPLOYMENT TRIBUNALS

Claimant: Miss A Donoghue

Respondent: Claws Rescue Hull a Charity formerly Not Just Pets Rescue

HELD in Leeds by CVP

ON: 14 and 21 February 2022

BEFORE: Employment Judge Shulman

REPRESENTATION:

Claimant: In person

Respondent: On 14 February 2023 Mr S Pinchbeck, Solicitor

On 21 February 2023 The respondent did not appear and was not represented

JUDGMENT

1. The proper title of the respondent is Claws Rescue Hull a Charity formerly known as Not Just Pets Rescue.
2. The respondent shall pay the claimant the following sums for the following periods by way of unauthorised deduction of wages, such payments being gross:
1 January 2022 to 7 July 2022 - £7673.94
17 October 2022 to 25 October 2022 - £365.43
Grand total - £8039.37

REASONS

1. **Claims**

There are two claims for unauthorised deduction of wages for the periods set out in the Judgment above.

2. **Issues**

The sole issue in this case is whether or not the claimant has been paid already. She says not. The respondent says she has.

3. **Matters occurring during the hearing**

Initially the respondent's representative had considerable difficulty getting on the CVP. Eventually he did so and the claimant was able to give her evidence. Mr Pinchbeck called Mr Matthew Taylor on behalf of the respondent and it became impossible to proceed because of the apparent poor quality of Mr Taylor's device. The hearing was adjourned so that it could take face to face. The parties agreed that this should be in Hull. At 12:14 the day before the adjourned hearing the Tribunal were informed by the respondent's representative that the respondent did not wish the respondent's representative to attend the hearing and further that the respondent would not be able to send any representative to the hearing. Mr Taylor had barely started his evidence. By absenting himself from the hearing the Tribunal had to consider as best it could the evidence available.

4. **Facts**

The Tribunal, having carefully reviewed all the evidence (both oral and documentary) before it finds the following facts (proved on the balance of probabilities):

- 4.1. The claimant was a shop assistant and carer of animals for the respondent. She had considerable connection with the respondent but the relevant period for her employment commenced on 6 July 2021 and the Tribunal finds as a fact that her period of employment ended on 7 July 2022. The claimant had a further short period of employment, the Tribunal finds, between 17 October 2022 and 25 October 2022.
- 4.2. The claimant's weekly gross wage was £284.22 gross. The claimant gave evidence that she was not paid between 1 January 2022 and 7 July 2022 nor also between 17 October 2022 and 23 October 2022.
- 4.3. The respondent produced pay slips for April, May and June but no pay slips for January, February and March all of 2022 and no pay slips for the short period in which the claimant worked in October 2022.
- 4.4. The respondent also produced a receipt for one month's wages in June 2022 which the respondent stated was signed for by the claimant. The claimant denied that it was her signature that appeared on the receipt.
- 4.5. The respondent produced no records apart from the disputed receipt to show that the claimant was actually paid during the relevant periods. The Tribunal finds that the receipt for the period of June 2023 when contested is unreliable.

- 4.6. In the absence of evidence that the claimant was actually paid during the relevant periods the Tribunal finds that she was not. The onus of course is on the claimant to prove that she was not paid. The Tribunal found her to be a truthful witness and since the respondent chose not to produce further evidence, which they had every opportunity to do, the Tribunal finds that payment was not made.
5. **Determination of the Issues (After listening to the factual and legal submissions made by and on behalf of the respective parties):**
 - 5.1. For the reasons set out in the findings of fact, having regard to the way in which the claimant gave her evidence and the fact that the respondent did not take the opportunity to give its evidence in full the Tribunal effectively had primary evidence only from the claimant. That is not to say that the respondent did not file a response, which it did, or that it failed to produce documentary evidence, which the Tribunal has referred to it and is considered in coming to its decision.
 - 5.2. In all the circumstances the Tribunal finds Judgment as set out above in favour of the claimant.

Employment Judge Shulman

Date: 2 March 2023