



EMPLOYMENT TRIBUNALS

Claimant: Mr L Fenwick and Mr N Yu

Respondent: Imperial Catering Services Ltd t/a George Wright Boutique Hotel

Heard at: Leeds by CVP

On: 10 March 2023

Before: Employment Judge O'Neill

Representation

Claimant: In person

Respondent: Not present

JUDGMENT

1. I amend the name of the respondent to Imperial Catering Services Limited trading as George Wright Boutique Hotel
2. The complaint that the claimants have each suffered an unauthorised deduction of wages succeeds.
3. The respondents shall pay to the claimant Mr Fenwick compensation in the sum of £1290.
4. The respondent shall pay to the claimant Mr Yu compensation in the sum of £683.60.

Reasons

Evidence

1. Both the claimants gave oral evidence in answer to my questions and showed me various documents including in Mr Fenwick's case contract of employment, pay slips redundancy notice and emails. And in Mr Yu's case payslips and emails.
2. The respondent was not present but I am satisfied that it had notice of the Hearing.

Claims and Law

3. The claims are for unauthorised deduction of wages contrary to section 13 and section 23 (1)(a) of the Employment Rights Act 1996 (ERA 1996).

Findings Fenwick

4. Mr Fenwick was employed as a night Porter at the George Wright Boutique Hotel at Rotherham from the 1st of October 2021 to the 10th of November 2022. He was made redundant by the owner of the Hotel Mr Mark Casson on the 10th of November 2022 by e-mail.
5. At the outset of his employment Mr Fenwick was issued with a contract of employment naming Imperial Catering Services limited as his employer. The registry at Companies House shows Mr Casson to be a director of Imperial Catering Services limited and the majority shareholder. Mr Casson attended the business most days and held himself out as being the owner and manager.
6. Mr Fenwick was issued with a pay slip on the 7th of November 2022 for £1290 but that payment was never made.
7. Mr Fenwick's notice of redundancy was sent by e-mail from Mr Casson on behalf of Imperial Catering Services limited. He is also received various emails from Accounts @ Imperial Catering Services.net, for example on the 7th of March 2022 the 27th of March 2022 and the 11th of May 2022

Service

8. In respect of both claimants' papers have been served on the George Wright Boutique Hotel at the Hotel address, Imperial Catering Services Limited at the Croft Rotherham and at unit 12 Imperial Building High Street Rotherham which is the registered office address. I am satisfied the respondents have had notice of the hearing.

Findings Mr Yu

9. The claimant Mr Yu was employed at the Hotel as a waiter from the 9th of October 2021 until his resignation on the 24th of September 2022. He originally did a trial shift under the supervision of Mr Casson and was then taken on. He signed various contractual documents but was not given copies.
10. In the past when he had reason to question an hours' deduction he received an e-mail dated the 5th of August 2022 from Imperial Catering Services limited as his employer and referring him to his pay slip on an online portal. At another time he received an e-mail from Accounts @ Imperial Catering Services.net.
11. Mr Yu typically received about £600 per month. He should have received a pay slip for about £600 on the 5th of October 2022 having done a typical number of shifts in the preceding period. He received neither a pay slip nor payment.

12. He received a pay slip for the 5th of November 2022 for £83.60 but was not paid.

Conclusions

13. I am satisfied that the employer of these two claimants was Imperial Catering Services Ltd given the role of Mr Casson, the express term in the contract of Mr Fenwick and the reference to the Company in various emails to the claimants including Mr Fenwick's redundancy notice.
14. I am satisfied that they have received the papers notifying them of this hearing, the papers having been sent to the Hotel address and to the registered office of Imperial Catering Services Ltd.
15. I find that Mr Fenwick was entitled to be paid £1290 pounds in accordance with the wage slip issued to him on the 7th of November 2022 but he has not received this payment and such a failure to pay wages properly payable amounts to an unauthorised deduction from wages contrary to S13 and S23 ERA 1996.
16. I find that Mr Yu was entitled to receive £683.60 for wages due and owing but which have not been paid and such a failure to pay wages properly payable amounts to an unauthorised deduction from wages contrary to S13 and S23 ERA 1996.

Employment Judge O'Neill

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