



EMPLOYMENT TRIBUNALS

Claimant: 1) Ms P K Ntsomeng
2) Ms A P Monametsi
3) Ms G Bagatiseng

Respondent: PHIL Healthcare Services Ltd

Heard at: London South Croydon, in public, by Cloud Video Platform

On: 3 October 2024

Before: Employment Judge Tsamados (sitting alone)

Representation

Claimant: 1st & 3rd Claimants in person, 2nd Claimant did not attend and was not represented

Respondent: No Response Received, did not attend and was not represented

JUDGMENT

The **Judgment** of the Employment Tribunal is as follows:

First Claimant

1. The complaint of unauthorised deductions from wages is well-founded. The respondent made an unauthorised deduction from the claimant's wages in the periods 5 to 22 January 2024.
2. The respondent shall pay the first claimant £1040, which is the gross sum deducted. The claimant is responsible for the payment of any tax or National Insurance.

Second Claimant

3. The second claimants claim is dismissed under rule 47 of the Employment Tribunal's (Constitution & Rules of Procedure) Regulations 2013, having failed to attend or be represented at the hearing and having considered

information available to me after any enquiries that where practicable as to the reasons for her absence.

Third Claimant

4. The complaint of unauthorised deductions from wages is well-founded. The respondent made an unauthorised deduction from the claimant's wages in the periods 19 January to 4 February 2024.
5. The respondent shall pay the third claimant £1000, which is the gross sum deducted. The claimant is responsible for the payment of any tax or National Insurance.

REASONS

- 1) This is a multiple claim made by the first claimant on behalf of herself and two other claimants brought against the same Respondent. The claim form was presented by the first claimant on 22 February 2024 following a period of early conciliation between 12 and 22 February 2024. The claim form only contains information relating to the first claimant. The two other claimants were simply listed by way of their names and addresses at the back of her claim form.
- 2) The claim was served on the respondent's registered address in Luton and not the address given by the first claimant in her claim form. The notice of claim and accompanying documentation was sent by Royal Mail to the respondent on 14 March 2024 but was returned unopened with "RTS" handwritten on the envelope. I assume that this means "Return To Sender". It is unclear why correspondence addressed to the respondent at its registered office would be returned in this manner beyond avoiding receipt.
- 3) The notice of today's hearing was sent to all three claimants as well as the respondent on 4 April 2021. This was not returned by the respondent.
- 4) By 2 pm today, when this hearing was due to start, only the first claimant was present in the Cloud Video Platform ("CVP") hearing room. In discussion, between my clerk and the first claimant, it appeared that only two of the claimants had been sent the CVP login details. The first claimant offered to contact the other two claimants to find out whether they were in a position to attend.
- 5) By 2.30 pm, the first claimant was present in the CVP hearing room, the third claimant had joined but had subsequently dropped out of the hearing and the first claimant had been unable to contact the second claimant.
- 6) By 2.47 pm, when I started the hearing, only the first claimant was available. Of course, the respondent was not present, the documents having been returned and there being no response entered, i.e. no defence to the claim.
- 7) I took evidence from the first claimant and in answer to questions I determined the following:

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- a. She was employed by the respondent, which is a care agency placing workers to work in its clients' homes;
 - b. Whilst she has a written contract with the respondent, she has not produced a copy of this and does not have it to hand to produce today;
 - c. She was employed as a Healthcare Assistant, and it was agreed to pay her £100 per day;
 - d. She worked on the following dates for which she has not been paid: 15 to 21 January 2024, she worked seven nights in a client's home;; 8 to 10 January 2024, she worked three nights in another client's home; and 5 January 2024, she worked one night in another client;
 - e. It was also agreed that she would be paid £40 for attendance at induction course on 14 January 2024 in preparation for the seven day assignment;
 - f. She was not aware whether the amount of £100 per day was gross or net of Income Tax and National Insurance, simply that she would be paid £100 per day.
- 8) While she is provided no written evidence in support of the above, no challenges are made to her evidence and I have no reason to dispute it.
- 9) On this basis I give judgment in the sum of £1040 gross.
- 10) I explained that I was unable to make any ruling in respect of the other two claimants because they are not present to give evidence. I further explained that they should be here because they were sent of the notice of hearing and if for any reason they did not get the CVP joining details they should have made enquiries of the Tribunal.
- 11) By this time it was 3.10 pm. I decided that it was in the interests of justice to wait until 3.45 pm to allow the first claimant to further attempt to contact the other two claimants, ideally, to secure their attendance.
- 12) At 3.48 pm, I recommenced the hearing by which time the third claimant had joined the CVP hearing room. She offered no real explanation as to why she had not been able to join the hearing at 2 pm but I decided in the circumstances to continue and to hear her claim.
- 13) In answer to my questions, I determined the following from the third claimant:
- a. She was also employed as a Healthcare Assistant at a rate of £100 per day;
 - b. She worked the following dates for which she was not paid: 19-21 January 2024; 29 January to 4 February 2024; this is a total of 10 days.
- 14) Whilst she provided no written evidence in support of this, her evidence was not challenged and I had no reason to dispute it.

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- 15) I therefore decided to give the third claimant judgment in the sum of £1000 gross.

- 16) With regard to the second claimant who was still not present in the hearing, I decided to dismiss her claim under rule 47 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013. I stated that I felt I had been more than lenient in waiting until 3.45 pm to start the hearing. We had attempted to contact her directly and through the first claimant. Frankly, she should have either been here on time or sent prior notification of and the reason for her absence. If she did not have the CVP joining details, she should have made enquiries and not simply failed to turn up. I also told the third claimant that is exactly what she had done although I appreciated that on enquiry she was able to attend at short notice.

Employment Judge Tsamados
7 November 2024

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