



EMPLOYMENT TRIBUNALS

Claimant: Mr T Azzopardi

Respondents: Loudslurp BW Limited

Heard at: Remotely by CVP **On:** 22 February 2021

Before: Employment Judge Holmes

REPRESENTATION:

Claimant: In person

Respondent: No attendance or representation

JUDGMENT

It is the judgment of the Tribunal that:

The respondent unlawfully deducted **£829.37** from the claimant's wages, which sum it is ordered to pay him. The respondent is to pay this as a gross sum, and it is the claimant's responsibility to ensure any tax or national insurance due upon it is accounted for to HMRC.

REASONS

1.The code V in the header indicates that this was a CVP hearing, held because the Tribunal considered that the issues could be determined without the need for an in person hearing. Neither party objected to that. The Employment Judge explained the procedure to the claimant, and invited him to raise any questions she may have during the course of the hearing.

2.By a claim form presented to the Tribunal on 24 February 2020 the claimant brought claims of unlawful deductions from wages his former employer. The claimant worked for the respondent at Bluewater Parkway in Dartford from 11 September 2019 until 6 January 2020. He claims that he was not paid from December until the end of his employment.

3. A response, albeit with the slight typographical error (“Loudlsurp” instead of “Loudslurp”, a mistake replicated in an email address provided in the ET3 as well) was received, in which the respondent disputed the pay details provided by the claimant. The respondent indicated that the claim was defended. The details then provided were “We defend the claim on the basis of the employee did not work the alleged hours stated”.

4. The respondent, however, has provided no further details, has provided no documents or other evidence for the hearing, and has not attended, or been represented at, the hearing.

5. The clerk to the Tribunal, however, tried to contact the respondent before the start of the hearing. The respondent has provided no telephone number. The clerk tried the email address provided, and by correcting the apparent transposition of the letter “l” , tried again, but to no avail.

6. In those circumstances, given the non – engagement of the respondent with the Tribunal since the response was submitted, the Employment Judge proceeded with the hearing.

7. The claimant gave evidence. He had, fortunately retained records of the hours that he had worked in December 2019 and January 2020, which had been captured on a rota application, which he had copied before it was deleted. It was established that his hourly rate of pay, after he was promoted to keyholder in December 2019, was £7.50 per hour. It was shortly after that that his pay ceased to be paid.

8. From his evidence and the records he produced the following was established. The claimant worked the following hours on the following days:

2019.

2 December	5 hours
3 December	5 hours
4 December	11 hours 45 mins
8 December	4 hours
9 December	3 hours 50 mins
10 December	6 hours
11 December	9 hours 30 mins
16 December	4 hours
18 December	4 hours 30 mins
20 December	8 hours 30 mins
22 December	7 hours 30 mins
27 December	4 hours
28 December	7 hours 30 mins
29 December	7 hours 30 mins
31 December	6 hours

2020.

1 January	7 hours
3 January	4 hours
4 January	5 hours
Total:	110 hours 35 mins

At £7.50 per hour the claimant therefore earned a total of £829.37. The respondent in fact informed HMRC that he had been paid £721.94 in this period, but he was not paid this. His claim accordingly succeeds, and the respondent unlawfully deducted £829.37 from his wages, which sum it is ordered to pay him.

Additional award.

9. The Employment Judge did enquire of the claimant whether he had been provided with a written statement of particulars of employment, as failure to do so may have required an additional award under s.38 of the Employment Act 2002 to be made. The claimant subsequently did provide the Tribunal with his offer letter and Statement of Main Terms and Conditions of Employment. As this appears to satisfy the requirements of s.1 of the Employment Rights Act 1996 (although the employer is described as LoudSlurp Bluewater Ltd, a company which has never existed, it would seem, though “BW” is probably an abbreviation for it) the Employment Judge makes no additional award.

The status of the respondent and the application to strike off.

10. The respondent, Loudslurp BW Limited, has taken no part after the response was filed. It has provided no effective contact details. On 11 February 2020 its Director, David Dalton, made an application pursuant to s.1003 of the Companies Act 2006 to strike the company off the register of companies. That would have had the effect of the company ceasing to exist, in circumstances which do not amount to an insolvency. That application was, on the instigation of the claimant it seems, suspended by the Registrar on 6 March 2020.

11. It is now a matter, as was explained to the claimant, for him as to how he enforces this judgment, which is against the limited company which, on its own admission, was his employer.

12. That, however, raises questions as to how, if the claimant was still working for the respondent up to 4 January 2020, David Dalton was able to make the declaration that he did on the form DS01 he filed with Companies House, signed and dated by him 11 February 2020, that none of the circumstances described in sections 1004 or 1005 of the Companies Act 2006 existed in relation to the company. Those circumstances are ones which prohibit a company seeking to make such an application. They include, at s.1004(1)(b) that the company has within the previous three months traded or otherwise carried on business. At first blush it would appear that it was still trading and carrying on business up to 4 January 2020, only some 6 weeks before David Dalton made his declaration.

13. These are not, however, matters for the Tribunal, which has no role in enforcement of its awards, nor indeed in the operation and enforcement of the

provisions of the Companies Acts. If, of course, the claimant was not in fact being employed by this company, but David Dalton personally, or another Loudslurp company (but obviously not Loudslurp BR Limited, for the same application was made the same day to strike off that company, which has been dissolved) , perhaps this respondent is not the correct respondent. The Tribunal, however, can only proceed against the respondent against which the claimant has brought his claim, and which has admitted being his employer.

Employment Judge Holmes
Dated: 22 February 2021

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