



EMPLOYMENT TRIBUNALS

BETWEEN

Claimants

Ms Doyle
Mrs Thorley

Respondent

We (Always) Care Ltd (in creditors
voluntary liquidation)

AND

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT Birmingham

ON

18 November 2020

EMPLOYMENT JUDGE Harding

Representation

For the Claimants: In Person

For the Respondent: No attendance

JUDGMENT

Mrs Doyle

1 The claim that there was a failure to pay the claimant the whole of her weekly pay (£350) between March – May 2019 fails and is dismissed.

2 The respondent made an unauthorised deduction from the claimant's wages in that between February – May 2019 there was a failure to pay to the claimant an agreed on call payment of £100. The respondent is ordered to pay to the claimant unpaid wages in the sum of £400 (gross figure).

3 In May 2019 the respondent paid the claimant less than the National Minimum Wage and accordingly made an unauthorised deduction from her

wages. The respondent is ordered to pay to the claimant unpaid wages in the sum of £130.90 (gross figure) (see attached annex).

4 The respondent failed to pay the claimant her holiday entitlement on termination of employment. The respondent is ordered to pay to the claimant the sum of £546 (gross figure) (see attached annex).

Mrs Thorley

1 The claim that the respondent made an unauthorised deduction from the claimant's wages between May – December 2018 is out of time. It was reasonably practicable for the claim to be submitted in time. Accordingly, the tribunal has no jurisdiction to hear the claim and it is dismissed.

2 Between 31 December 2018 – 31 March 2019 the respondent paid the claimant less than the National Minimum Wage and accordingly made an unauthorised deduction from her wages. The respondent is ordered to pay to the claimant unpaid wages in the sum of £1,117.48 (gross figure) (see attached annex).

3 The claimant's claim for breach of contract (non payment of accrued holiday pay on termination of employment) succeeds. The respondent is ordered to pay to the claimant damages in the sum of £3,404 (gross figure) (see attached annex).

Employment Judge Harding
18 November 2020

ANNEX

Ms Doyle

NMW calculation

Pay reference period 1: March 2019

Total hours worked: 181
Total pay: £1,500
Hourly rate: £8.28
Applicable NMW rate: £7.83
No deduction

Pay reference period 2: April 2019

Total hours worked: 173.75
Total pay: £1,500
Hourly rate: £8.63
Applicable NMW rate: £8.21
No deduction

Pay reference period 3: May 2019

Total hours worked: 192.5
Total pay: £1,450
Hourly rate: £7.53
Applicable NMW rate: £8.21
Unlawful deduction of 0.68p per hour

$192.5 \times 0.68p = \mathbf{£130.90}$

Holiday (WTR calculation)

28 days per year (5.6 weeks)
0.6 of leave year expired
 $(0.6 \times 5.6) - 9$ (4 days leave taken and 5 paid for on termination) = 7.8 days

$£350 \times 7.8/5 = \mathbf{£546}$

Mrs Thorley

Pay reference period 1: 27 December 2018 – 4 January 2019

Total hours worked: 74.75
Total pay: £500
Hourly rate: £6.68
Applicable NMW rate: £7.83
Unlawful deduction of £1.15p per hour

74.75 x £1.15 = **£85.96**

Pay reference period 2: 4 January 2019 – 11 January 2019

Total hours worked: 74.75
Total pay: £500
Hourly rate: £6.68
Applicable NMW rate: £7.83
Unlawful deduction of £1.15p per hour

74.75 x £1.15 = **£85.96**

Pay reference period 3: 11 January 2019 – 18 January 2019

Total hours worked: 74.75
Total pay: £500
Hourly rate: £6.68
Applicable NMW rate: £7.83
Unlawful deduction of £1.15p per hour

74.75 x £1.15 = **£85.96**

Pay reference period 4: 18 January 2019 – 25 January 2019

Total hours worked: 74.75
Total pay: £500
Hourly rate: £6.68
Applicable NMW rate: £7.83
Unlawful deduction of £1.15p per hour

74.75 x £1.15 = **£85.96**

Pay reference period 5: 25 January 2019 – 1 February 2019

Total hours worked: 74.75
Total pay: £500
Hourly rate: £6.68
Applicable NMW rate: £7.83
Unlawful deduction of £1.15p per hour

$74.75 \times £1.15 = \mathbf{£85.96}$

Pay reference period 6: 1 February 2019 – 8 February 2019

Total hours worked: 74.75
Total pay: £500
Hourly rate: £6.68
Applicable NMW rate: £7.83
Unlawful deduction of £1.15p per hour

$74.75 \times £1.15 = \mathbf{£85.96}$

Pay reference period 7: 8 February 2019 – 15 February 2019

Total hours worked: 74.75
Total pay: £500
Hourly rate: £6.68
Applicable NMW rate: £7.83
Unlawful deduction of £1.15p per hour

$74.75 \times £1.15 = \mathbf{£85.96}$

Pay reference period 8: 15 February 2019 – 22 February 2019

Total hours worked: 74.75
Total pay: £500
Hourly rate: £6.68
Applicable NMW rate: £7.83
Unlawful deduction of £1.15p per hour

$74.75 \times £1.15 = \mathbf{£85.96}$

Pay reference period 9: 22 February 2019 – 1 March 2019

Total hours worked: 74.75
Total pay: £500
Hourly rate: £6.68
Applicable NMW rate: £7.83
Unlawful deduction of £1.15p per hour

74.75 x £1.15 = **£85.96**

Pay reference period 10: 1 March 2019 – 8 March 2019

Total hours worked: 74.75
Total pay: £500
Hourly rate: £6.68
Applicable NMW rate: £7.83
Unlawful deduction of £1.15p per hour

74.75 x £1.15 = **£85.96**

Pay reference period 11: 8 March 2019 – 15 March 2019

Total hours worked: 74.75
Total pay: £500
Hourly rate: £6.68
Applicable NMW rate: £7.83
Unlawful deduction of £1.15p per hour

74.75 x £1.15 = **£85.96**

Pay reference period 12: 15 March 2019 – 22 March 2019

Total hours worked: 74.75
Total pay: £500
Hourly rate: £6.68
Applicable NMW rate: £7.83
Unlawful deduction of £1.15p per hour

74.75 x £1.15 = **£85.96**

Pay reference period 13: 22 March 2019 – 29 March 2019

Total hours worked: 74.75
Total pay: £500
Hourly rate: £6.68
Applicable NMW rate: £7.83
Unlawful deduction of £1.15p per hour

74.75 x £1.15 = **£85.96**

TOTAL DEDUCTION: £1, 117.48

Holiday (contract based claim not WTR)

1/1/18 – 31/12/18

28 days accrued. No leave taken

1/1/19 – 30/6/19

$6 \times 2.34 = 14.04$ days accrued – 8 days taken = 6.04 days

$6.04 + 28 = 34.04$ days

$34.04 @ \text{£}100 \text{ a day} = \text{£}3,404$