



EMPLOYMENT TRIBUNALS

Claimant: Treece Harris

Respondent: Christopher Adamson (1)
The Secretary of State for Business, Energy & Industrial Strategy (2)

Heard at: Bristol (video hearing) **On:** 10 February 2023

Before: . Employment Judge Housego

Representation

Claimant: Stephen Harris, father of Claimant

Respondent: Did not appear was not represented and sent no representation

JUDGMENT

1. The 1st Respondent made unlawful deductions from the wages of the Claimant.
2. The 1st Respondent owed the Claimant £1812.00, the amount of those deductions.
3. The 2nd Respondent is ordered to pay that sum to the Claimant (subject to any statutory limits) as the 1st Respondent was made bankrupt on 28 October 2022.

REASONS

1. The Claimant's father contracted with the 1st Respondent for a structure to be built in the garden of the home of the Claimant's family.
2. The Claimant was about to start at university and had left school.
3. The 1st Respondent said to the Claimant's father that he (the 1st Respondent) was very short of workers. The Claimant was told of this, spoke to the 1st Respondent and it was agreed that he would work for the 1st Respondent at an hourly rate.
4. He did so work, almost entirely on projects other than the one at his home.
5. The 1st Respondent withheld £500 from the first payment of wages made, as a "bond". All payments made by the 1st Respondent to the Claimant were by bank

transfer. There was no written contract of employment and no payslips. While this was not appropriate, the Claimant was not concerned as it was unlikely that he would be liable to income tax or national insurance.

6. The 1st Respondent and the Claimant's father disagreed about the work carried out by the 1st Respondent for the Claimant's father. The Claimant's father withheld payments to the 1st Respondent. The 1st Respondent then said that he was dependent on that money to pay the Claimant, and so it was the Claimant's father who was responsible.
7. Whether or not the Claimant's father was right to withhold payment to the 1st Respondent is immaterial: the 1st Respondent had no right to withhold the Claimant's wages by reason of a dispute with the Claimant's father.
8. The 1st Respondent in a response filed with the Tribunal asserts that the Claimant was "self-employed". He was not. He was employed. He worked where and when the 1st Respondent directed. He had no other work, and he worked full time. He was paid "cash in hand" and did not render invoices. The 1st Respondent provided all tools and materials used by the Claimant.
9. The 1st Respondent sent emails to the Claimant's father which confirm the Claimant's employment status:

"Your son's wages need to be paid and the funds for this are currently being withheld by yourself." (05 September 2022)

"Simply put your non-payment is mainly to cover the cost of your son's wages..." (another email of the same date)

10. I accept the Claimant's evidence as to the amounts paid and unpaid, as above.
11. The 2nd Respondent denies liability on the basis that it has not been possible for them to verify the Claimant's employment details. That has been done before me. It is not necessary for an insolvency practitioner to provide that information. There will be nothing in documentary form. The 1st Respondent is likely to deny that the Claimant was an employee.
12. The total earned by the Claimant was £3,005. Some payments were made, including repayment of the £500 "bond". The Claimant's calculation is as follows (from the witness statement he provided which he affirmed was true and which I accept) is:

"On Friday, the 9th of September I received a payment of £500, which was the return of my bond and another sum of £338 which does not cover the sum of my full month's wages.

I worked 22 days in the month of August and so at £95 per day, I should have received a payment of £2090.

With the payment of £338 I am still owed a total of £1,752. I have also worked a total of five hours of overtime which Chris agreed to be paid at £12 per hour, so an additional £60. This would mean that the total amount still outstanding is £1,812."

13. It is this sum which I order to be paid, and by the 2nd Respondent as the 1st Respondent has been declared bankrupt.

**Employment Judge Housego
10 February 2023**

Judgment sent to the parties on:
15 February 2023

Miss C Edwards

FOR THE TRIBUNAL OFFICE