



EMPLOYMENT TRIBUNALS

Claimant: Mr J Solomon

Respondent: Let Ins Limited

Heard at: Nottingham **On:** Friday 28 September 2018

Before: Employment Judge P Britton (sitting alone)

Representatives

Claimant: In Person, supported by Mr A Solomon (Father)

Respondent: Mr N Thomas, Managing Director

JUDGMENT

1. The claim is struck out the Claimant and his father having conducted it unreasonably.

REASONS

1. This claim (ET1) was presented on the basis of unlawful deduction from wages thus pursuant to Part II of the Employment Rights Act 1996. The Claimant was employed by the Respondent as a labourer between 4 September 2017 and 7 April 2018. It is clear from the narrative that emotions were running high. That is even clearer from submissions that I received from the father this morning. This is full of hyperbolic phrases. It speaks for itself.

2. Insofar as it was purported to suggest that the Respondent was inter alia a "thief" it was clear from the documentation that I received today that the Respondent keeps correct records as required by inter alia the Working Time Regulations and HMRC and also records for such things as issuing of uniforms to the Claimant and for which he signed. Furthermore it has a clear cut contractual provision in the contract of employment which he signed at paragraph 7(4). He accepts he received a copy of the same. This states that in terms of the termination of the employment for whatever reason the employer at that stage can deduct from any wages due inter alia:

"7(4) Any costs of repairing any damage to or loss of property of, any fines or charges imposed on or any other loss sustained by the employer or any third party caused by the employee's breach of contract or breach of the employer's rules or as a result of the employee's negligence or dishonesty."

3. Put at its simplest emerging from the evidence before me, which the Claimant did not dispute and as backed up by the documentation that was put before me by the Respondent, is as follows:-

3.1 That whilst in the employment he incurred a fixed penalty charge which the employer was obliged to pay for crossing into a bus lane when driving the company vehicle with which he was supplied. Before me is the fixed penalty notice which had a photograph of the vehicle in the bus lane. The fine/fixed penalty was £30.

3.2 That on another occasion he reversed the vehicle it seems into a gate thereby damaging a rear light cluster. Initially the employer thought it might be able to be repaired by replacing a £20 plastic cover. As it is this the entire light cluster had to be replaced at a cost of £120. Before me is the invoice.

3.3 Third in terms of the uncontroversial so to speak, on 12 January 2018 the Claimant negligently placed petrol in the company diesel vehicle that he was using in the course of his employment. This necessitated a call out and an invoice of £245. This also is before me.

4. Thus it would mean that under the contract of employment the employer would have been entitled to deduct from the last wages £395.

5. Left in dispute was whether or not the employer could deduct the first item on the agenda so to speak which was the cost of the non return of one of the polo shirts which the Claimant had been supplied with for the purposes of his duties. He had signed an agreement to the effect that he would be liable to recompense the employer for the cost of any item of uniform which he failed to return. I have seen that document. The Claimant's position on this particular issue is that it was damaged beyond repair when he was cleaning a company vehicle.

5. The Respondent's position, if the case had been tried on the issue, was that he had not cleaned any vehicle as he described and therefore the damage had not occurred. This would have required me to hear evidence. As it is the employer had been prepared today to forgo the cost of the polo shirt in order to settle the matter, thus meaning he would make a payment to the Claimant in that sum. The Claimant and his father rejected the proposal and were belligerent and hostile particularly to Mr Thomas when doing so.

6. At that stage the Claimant and his father were making plain inter alia that they had not been supplied with the documents before today that I have now referred to and thus inter alia we are back to the very strident language of the father. The first and obvious point to make this being a "fast track" case is that the tribunal issued simplified directions. Prior discovery was not ordered. Thus there was no requirement to produce the documents before today. Second there was no prejudice given that the Claimant having seen the documents accepted he was responsible. Thus if I continued I would have found that as to the 3 deductions, leaving aside the polo shirt, the employer was contractually entitled to make the same: Thus leaving me to adjudicate on the disputed issue of the polo shirt.

7. However at this stage and explaining to me why he had not provided the documents before today Mr Thomas explained that he had received very serious threats from the Claimant and his father after the proceedings had been issued.

He had contacted the Police force who had advised him to make no contact whatsoever with the Claimant or his father.

8. At this stage the Respondent put before me the letter that he had received on behalf of the Claimant. Alex Thomas agreed that he had written it and the Claimant agreed that he knew that he had written it and that he had approved the same. Suffice it to say that that letter is most clearly threatening. It speaks for itself. Thus in the circumstances I took myself to the 2013 Tribunal Rules of Procedure and in particular Rule 37(b). I gave the Claimant and his father an opportunity to show cause why I should not strike this claim out for unreasonable conduct. Given they accepted not only the writing of the letter but that it had been sent and thus of course as we know received by the Respondent, it follows that that does not excuse them from the provision at Rule 37(b). Both were belligerent and unapologetic.

9. Thus I dismiss the claim, that is to say I strike it out for unreasonable behaviour.

Employment Judge Britton

Date: 22 November 2018

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE