



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4111528/2021 (V)

Preliminary Hearing Held on 8 February 2022 by CVP

Employment Judge Jones

Ms S Malone

**Claimant
Represented by:
Mr J Lawson
Solicitor**

Ohsogorgeous Hairdressing Ltd

**First Respondent
No appearance**

Ms M Sweeney t/a Ohsogorgeous Hairdressing Ltd

**Second Respondent
No appearance**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

1. The claimant was unfairly dismissed by the First Respondent and the First Respondent is ordered to pay to the claimant a basic award of £1050 and a compensatory award of £5949. A 10% uplift to the compensatory award is applied because the First Respondent failed to follow the ACAS Code of Practice when dismissing the claimant, therefore the total compensatory award is £6544. The prescribed period is 1 August 2021 until 31 March 2022 and the prescribed amount is £6044.
2. The First Respondent is ordered to pay to the claimant the sum of £356 net which was unlawfully deducted from her wages.
3. The First Respondent wrongfully dismissed the claimant and is ordered to pay to her the sum of £924 net in respect of three weeks' unpaid notice pay.
4. The First Respondent failed to provide the claimant with a statement of terms and conditions of employment in terms of section 1 Employment

Rights Act 1996 and is ordered to pay to the claimant the sum of £700 being equivalent to two weeks' wages in respect of that failure.

Reasons

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Introduction

1. The claimant was employed by the respondent until her dismissal on 2 July 2021. The claimant presented a claim to the Tribunal complaining of unfair dismissal and unlawful deduction from wages. The claim was raised against the limited company and the owner of that company as an individual. The claimant also indicated that she had never received a statement of terms and conditions of employment in terms of section 1 Employment Rights Act 1996.
2. Neither respondent presented a response to the claim. A final hearing was deemed necessary in order to clarify the correct respondent and the sums being sought. An inventory of productions was lodged on behalf of the claimant in advance of that hearing, which took place on the Cloud Video Platform.
3. The Tribunal understands that efforts were made to lodge documents on behalf of the respondents on the afternoon of 7 February and morning of 8 February. However, the emails which provided these documents (which appeared to be statements which would not in any event have been admissible in evidence) were not accompanied with any application on behalf of either respondent for an ET3 to be accepted late, any explanation of why these documents should be considered by the Tribunal or a request to take part in proceedings. Therefore the Tribunal did not take into account when reaching its judgment any documents which the respondents had sought to lodge. The Tribunal also understands that the clerk was advised after the conclusion of the hearing that Ms Sweeney (the Second respondent) had emailed the Tribunal at 9.57am on the morning of the hearing and stated that she 'had not received a zoom link for the meeting'. Therefore neither respondent took part in the proceedings.

4. The Tribunal heard evidence under oath from the claimant in relation to her income during the relevant period.

Decision

- 5 5. It was conceded on behalf of the claimant that the First respondent was her employer and was the appropriate respondent in the case. Having considered the evidence and available material the Tribunal determined that:
 - 10 a. The First Respondent made an unauthorised deduction from the claimant's wages and is ordered to pay to the claimant the sum of £356.
 - b. The First Respondent wrongfully dismissed the claimant and the claimant is entitled to receive £924 net in respect of three weeks' unpaid notice pay.
 - 15 c. The claimant was unfairly dismissed by the First Respondent and the First Respondent is ordered to pay to the claimant a basic award of £1050 and a compensatory award of £5949 which includes an award in respect of loss of statutory rights of £500. A 10% uplift is applied to the compensatory award on the basis that the First Respondent failed to follow the ACAS Code of Practice in dismissing the claimant.
20 The Tribunal took into account the limited evidence available to it and size of the First Respondent's business, which it understood to be one establishment with a small number of staff. The claimant has been in receipt of Universal Credit during the period from the termination of her employment and therefore the recoupment
25 regulations apply to the compensatory award.

- 5 d. The First Respondent is also ordered to pay to the claimant the sum of £700 being two weeks' pay in respect of section 38 Employment Act 2002 for failure to provide the claimant with a statement of terms and conditions of employment in terms of section 1 Employment Rights Act 1996.

10 **Employment Judge:** **A Jones**
Date of Judgment: **09 February 2022**
Date issued to Parties: **09 February 2022**

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