



## EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case Number: 4108204/2022

Hearing held at Glasgow on 30 May 2023

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Employment Judge D Hoey

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**Ms A Crozier**

**Claimant**  
**Represented by:**  
**Herself**

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**Reem Gleam Cleaning Limited**

**Respondent**  
**Represented by:**  
**Not present**

## JUDGMENT

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### **Rule 21 of the Employment Tribunal Rules of Procedure 2013**

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1. The judgment of the Employment Tribunal is that the claimant's complaint of a failure of the respondent to pay wages due to the claimant succeeds and it is declared that the respondent made an unlawful deduction from wages due to the first claimant and the respondent shall pay to the first claimant the net sum of **FIVE THOUSAND FOUR HUNDRED POUNDS** (£5,400). Any deductions required by law should be made prior to payment of the foregoing sums, such that the claimant receives the foregoing sum on a net basis.

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2. The remaining claims were withdrawn by the claimant as she had not been dismissed and wished to write to the respondent (and a potential transferee)

to resolve her employment disputes, which failing, raise a claim following upon her dismissal.

## REASONS

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1. The claimant had raised a number of claims, including failure to pay sums due, redundancy, holiday pay and unfair dismissal. In relation to dismissal the claimant had stated in the claim form that she was unable to say when she had been dismissed. The reason for that became clear during the hearing as in fact the claimant had not been dismissed. The claimant had not been legally advised and was unclear as to the position.
2. The respondent had not defended the claims.
3. While there was a proposal to strike the respondent from the companies house register that process had been paused. There was no suggestion of any ongoing insolvency proceedings.

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### Facts

4. The facts were straightforward and not in dispute.
5. The claimant was a cleaner earning £540 a month (net). That was a sum paid to the claimant irrespective of whatever the claimant did by way of work. The respondent settled any relevant tax and deductions, such that the claimant received £540 into her bank account each month.
6. The director of the respondent, Mr Ryan Marsh, advised the claimant that he encountered financial difficulties and the claimant was to “bear with him”. He would be in touch in due course once the difficulties were resolved.
7. The claimant was not paid her monthly wage following July 2022 and continues not to receive the sums due to her. The claimant was due to be paid in respect of 10 month’s wages. Those sums were contractually due to her but has not been paid.

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8. The claimant had tried to contact the respondent but to no effect. The claimant's employer continues not to contact the claimant nor pay her the sums to which she is due.
9. The claimant considered that her employment was continuing. She was due to be paid the same amount of money each month, irrespective of the work she carried out. The respondent had failed to pay her the sums she was contractually due and those sums continue to fall due to her.
10. The claimant had not been dismissed and she had not resigned. She was waiting on a response from the respondent as to what was happening with regard to her employment. She wanted a resolution and had tried to contact the respondent and still waits a resolution. She was worried the respondent had ceased to trade but companies house had advised her the company was technically still solvent.
11. The claimant recently discovered that around August 2022 Mr Marsh set up a new company called Infiniti Cleaning Solutions Limited (company number SC 742290). It appears this is based at the same address as the respondent and seems to have the same statutory officers. Mr Marsh is director of both companies. The claimant considers that it is possible her employment transferred to this company. She had previously transferred to the respondent from another company.

**Respondent not disputing the claims**

12. The respondent was not present at the hearing, which had been intimated both by the claimant and the Tribunal. There was no defence to the assertion the claimant was due to be paid the sums sought.

**Law**

13. In terms of section 13 of the Employment Rights Act 1996, it is unlawful to pay to an employee, by way of wages, a sum less than that which is properly payable in terms of the contract of employment. The Tribunal is able to make

a declaration as to what the unlawful deduction was and order the respondent to pay to the claimant said deduction.

**Decision and discussion**

- 5 14. The claimant is entitled to be paid for 10 month's wages. She was ready willing and able to work for the 10 month period but no wages were paid to her. Her employment continued and she was due to be paid. She had not been dismissed and had not ended her employment contract. Consequently the sums the claimant received by way of wages was less than that properly payable. There was a series of deductions since for the last 10 months the
- 10 respondent had failed to pay the sums due to the claimant. That is a continuing series of deductions.
15. The respondent has made an unlawful deduction from the wages due to her.
16. The claimant is accordingly due to be paid 10 x £540, namely £5,400. That is the net sum that the claimant should receive (with the respondent settling
- 15 other liabilities due by law in relation to the gross sum).
17. The respondent is ordered to pay the first claimant these sums which are due to the claimant.
18. The claimant would take advice from citizens advice or a local law clinic whose details are available online as to her position.
- 20 19. She indicated at the hearing that she may write to the current respondent and the new company asking for confirmation as to her employment position (which she believes may have transferred to the new company) saying that if she does not hear within a set period she may advise both companies that she is resigning and seek compensation against both companies (for unfair
- 25 dismissal, the basic award of which would reflect a redundancy payment).
20. If her employment ended she would then be seeking compensation for her dismissal (reflecting her 12 year's service)\_and holiday pay to which she was entitled.

21. The claimant indicated that would formally advise both companies if she had not heard from them that she was resigning on a particular date and then contact ACAS for early conciliation and lodge fresh Tribunal proceedings in respect of such sums and claims against both companies.

5 22. The claimant would seek advice as to seeking payment of the sums due to her following upon this judgment and any other claims the claimant raises.

23. It is hoped the respondent and the claimant can resolve matters without the need for further litigation.

24. The respondent should pay the claimant the sums due.

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**Employment Judge: D Hoey**  
**Date of Judgment: 22 May 2023**  
**Entered in register: 23 May 2023**  
**and copied to parties**

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