



EMPLOYMENT TRIBUNALS (SCOTLAND)

5

Case No: 4108253/2022

**Final Hearing held on the Cloud Video Platform
on 8 March 2023**

10

Employment Judge A Jones

15
Mr K Glanville

**Claimant
In person**

20
Carmeleon ARC Ltd

**Respondent
No appearance**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

25 The respondent unlawfully deducted the sum of One Thousand, One Hundred and Ninety Four Pounds (£1,194) gross from the claimant's wages and is ordered to reimburse the claimant in respect of that sum.

30

REASONS

1. The claimant lodged a claim on 21 December alleging that the respondent had made unlawful deduction from his wages. In particular, he alleged that the respondent had not paid him for the first two weeks in October 2022 when he had worked and had refused to allow him to return to work in the last week of October following a period of sick leave and did not pay him during that time.
2. The respondent did not submit a Notice of Appearance in response to the claimant's claim and took no part whatsoever in the proceedings. No attempt was made by the respondent to participate in the final hearing.

3. A final hearing took place at which evidence was heard from the claimant. The claimant had provided a copy of a contract he had been issued although he was never provided with a signed copy of that contract. He also provided a copy of his letter of resignation.
- 5 4. Having heard evidence from the claimant the Tribunal found the following facts to have been established.
5. The claimant was employed as an administrator and marketing assistant with the respondent. He was contracted to work 38 hours a week and be paid £12 per hour. He started working for the respondent on 29 September
10 2022 until his resignation on 1 November 2022.
6. The respondent did not provide the claimant with a signed copy of his contract of employment.
7. The claimant became unwell on Monday 17 October and had to leave work. He then contacted his manager to ask if he could have the week off
15 work as he was too ill to work. He provided the respondent with a fit note from his GP.
8. When the claimant contacted his manager to say that he could return to work on 24 October he was informed that he should not return and that there was an investigation being conducted into his conduct.
- 20 9. The claimant contacted the respondent on a number of occasions to clarify why he could not return to work and what aspects of his conduct were being investigated. He did not receive a response.
10. The claimant then discovered that he had not been paid for the month of October. He submitted a letter of resignation on 1 November and was
25 subsequently informed that his resignation was irrelevant as he had been dismissed although he had never been informed of this alleged dismissal.
11. The claimant did not receive any pay for October.
12. The claimant worked 61.5 hours in the first two weeks of October as he took some time off to attend his GP. He was paid £12 per hour. He was
30 therefore entitled to be paid £738 gross for those two weeks of work.

13. The claimant did not receive Statutory Sick Pay for the week he was absent due to illness. The Tribunal however has no jurisdiction to make any award in this regard.
14. The claimant was not paid for the week during which he was prevented from attending work. He appeared to have been suspended from work. There was no contractual provision entitling the respondent to suspend the claimant from work without pay. Therefore the claimant was entitled to be paid for this week on the basis of his contractual hours. He was entitled to be paid £12 per hour for 38 hours which is a total sum of £456.
15. A worker is entitled to seek to present a claim to an Employment Tribunal to recover any unlawful deductions which have been made from their wages (section 23 Employment Rights Act 1996). The Tribunal is satisfied that unlawful deductions have been made from the claimant's wages in respect of his October pay.
16. Therefore, the claimant was entitled to receive wages of £1,194 gross for the month of October. He did not receive any payment and therefore the respondent made an unlawful deduction from the claimant's wages of that sum. The respondent is ordered to reimburse the claimant for the unlawful deductions from wages made.

Employment Judge: A Jones
Date of Judgment: 9 March 2023
Date sent to parties: 13 March 2023