



EMPLOYMENT TRIBUNALS

Heard at: London South **On:** 18 October 2024

*** Claimant:** Mr N J Constable *

Respondents: (1) LW&P (Holdings) Limited (in compulsory liquidation)
(2) Archerfield Construction Limited

Before: Employment Judge Ramsden

Representation:

Claimant In person

Respondent 1 Non-attending

Respondent 2 Mr T Lee, Director

CORRECTED JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

1. The Claimant's claim was presented to the Employment Tribunal on 24 March 2023.
2. The Claim was served on the First Respondent on 6 June 2023, and the First Respondent failed to present a valid response on time on the expiry of the time limit in Rule 16 of the Employment Tribunals Rules of Procedure 2013 (the **ET Rules**), which fell on 4 July 2023.
3. The First Respondent went into compulsory liquidation on 4 October 2023, and so the claim against it is automatically stayed.
4. The Claim was served on the Second Respondent on 4 December 2023, and the Second Respondent failed to present a valid response upon the expiry of the time limit in Rule 16 of the ET Rules, which fell on 31 December 2023.
5. Upon the attendance of the Second Respondent at this hearing, no valid reason was offered for the failure of the Second Respondent to present a Response to the claim, or to apply for an extension of time to do so in accordance with Rule

20 of the ET Rules. The notice of claim was validly served to its registered address in December 2023, and more than nine months have passed since that occurred. Mr Lee indicated that he first became aware of the claim against the Second Respondent in July 2024, some three months before this hearing, and again, the Second Respondent failed to make an application for an extension of time to file a Response. Moreover, the Tribunal wrote to the parties on 23 September 2024 making it plain that the Tribunal did not regard the Second Respondent as having made an application under Rule 20, or indeed any of the ET Rules. The Second Respondent has had ample opportunity to make such an application, and has chosen not to do so.

6. The Employment Judge has decided that, pursuant to Rule 21(2) of the ET Rules, a determination can properly be made of the claim against the Second Respondent, and finds that:
 - a) The Claimant was employed by the Second Respondent for the period 26 October 2022 to 23 January 2023; and
 - b) The Claimant's claim against the Second Respondent of unauthorised deductions from his wages under section 13 of the Employment Rights Act 1996 in respect of the sum of £5,749.05 is well-founded.
7. The Second Respondent must pay to the Claimant damages in the sum of **£5,749.05 gross**.
8. The Claimant must account to HMRC in respect of any payment received by him pursuant to this judgment.
9. The claim against the First Respondent is unaffected by this judgment.

Employment Judge Ramsden

~~Date 18 October 2024~~

Date of correction 8 November 2024

JUDGMENT SENT TO THE PARTIES ON

8 November 2024

For the Tribunal Office

P Wing

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<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>