



EMPLOYMENT TRIBUNALS

Claimant: Miss Oliwia Torres

Respondent: Electrosonic Limited

Heard at: London South (by video) **On:** 28 November 2024

Before: Employment Judge C H O'Rourke

Representation:

Claimant: in person

Respondent: Ms Byrne – Chief People's Officer of the Respondent

REASONS

(Having been requested subject to Rule 62 of the Tribunal's Rules of Procedure 2013)

1. The Claimant had brought claims of breach of contract in respect of notice pay, arrears of holiday pay, unlawful deductions from salary and 'other payments'.
2. She also sought, as 'other payments' to bring a claim in relation to alleged non-payment of PAYE income tax by the Respondent, but it was explained to her that the Tribunal has no jurisdiction to consider such a claim and that any such concerns should be addressed to His Majesty's Revenue and Customs. That matter is not, therefore, considered further.
3. Both the Claimant and Respondent provided bundles of documents and both parties made submissions.
4. Claims made in ET1. The Claimant said the following:
 - a. She had been employed from 13 November 2023 to 22 January 2024.
 - b. That when dismissed, it was on one week's payment in lieu of notice, which she did not receive.

- c. That she had one day's pay deducted, for a day's holiday taken in excess of entitlement.
 - d. That two days' sickness absence was deducted from her salary.
 - e. As she did not have access to her payslips, she could not check the amounts paid to her on 25 January 2024.
5. Response. The Respondent's response is simply that the Claimant has received all monies due to her.
6. Evidence Considered. I considered the following:
- a. The dismissal letter, of 22 January 2024 stated that the Claimant was being dismissed, for poor performance, on one week's pay in lieu of notice. It also stated that, as at that date, she had accrued a two-day holiday entitlement for 2024, but having so far taken three days, one day's pay would be deducted. It also recorded that as she had been on sick leave for two days and being only entitled to SSP after three days, two further days' pay would be deducted.
 - b. The Claimant's contract of employment set out the following:
 - i. There is a contractual term entitling the Respondent to make deductions from pay, in respect of overpayments.
 - ii. The holiday year is the same as the calendar year.
 - iii. Only SSP is payable for sick leave during the first six months of service.
 - iv. Only one week's notice of dismissal is required in the first three months of service.
 - c. The Claimant had provided a statement, dated 20 November 2024, which alleged wrongful/unfair dismissal. However, she had not claimed unfair dismissal in her claim form and in any event had insufficient service to do so.
 - d. Her pay slip for January 2024 showed a payment of £576.92 for PILON and deductions of £230.77 and £115.38 for sick leave and unpaid leave, respectively.

7. Submissions. The Claimant was asked to explain why, despite the contents of the Response and the evidence referred to above, she still considered that she was owed money. She stated the following:
- a. She agreed that she had received the PILON payment set out in the January 2024 payslip.
 - b. She also agreed that she needed to re-pay the one day's holiday pay, taken in excess of entitlement.
 - c. She also accepted that she owed two days' pay in respect of sick leave.
 - d. When further asked, therefore, to explain why having accepted these matters, she was continuing with this claim, she said that she was '*uncertain*' about the calculations of these sums. It was pointed out to her that at no point had she offered alternative calculations and that it was not enough simply for her to be '*uncertain*' to justify continuation of this claim, when ample time over the last ten months was available to her to establish such certainty.
8. Finding. The burden of proof being on the Claimant to satisfy this Tribunal as to any sums due to her and she having offered no such evidence, her claims are dismissed.

Employment Judge O'Rourke

Dated: 17 December 2024

REASONS SENT TO THE PARTIES
ON:

21 January 2025

For the Tribunal Office

P Wing