



EMPLOYMENT TRIBUNALS

Claimant: Mr T Sato

Respondent: C & A Inns Limited

Heard at: Nottingham On: 28 November 2024

Before: Employment Judge M Butler (sitting alone)

Appearances

Claimant: In person

Respondent: No attendance or representation

JUDGMENT

The Judgment of the Tribunal is that:

1. The Respondent failed to pay the correct amount of holiday pay to the Claimant and is ordered to pay him the gross sum of £1,353.76; and
2. The Respondent failed to provide the Claimant with all of his payslips and is ordered to pay him the gross sum of £1,230.76 being equivalent to 2 weeks wages.
3. The claim for unauthorised deductions from wages is not well founded and is dismissed.

The total award is £2,584.61.

REASONS

Background

1. The Claimant submitted his claim to the Tribunal on 25 July 2024 after a period of early conciliation. He worked as Head Chef for the Respondent at one of their hostelrys in Derby from 16 October 2023 to 10 May 2024. He brings

claims of unauthorised deductions, for holiday pay and complains that he was not given all of his payslips.

2. The Respondent denied the claims and produced some documents to the Tribunal, notably, the Claimant's contract of employment.

3. The hearing was not without its challenges and reasonable adjustments were made for the Claimant. He is Japanese, profoundly deaf, does not speak English and can lip read although not with any degree of fluency. He can read English to a good standard. It was not possible to find a JSL interpreter. Accordingly, the clerk for the hearing sat with the Claimant and wrote down what I said to the Claimant and told me what the Claimant had written.

4. The Respondent did not attend and was not represented. The Tribunal was not advised in advance that they would not attend and we received no contact indicating any difficulty in travelling to the hearing. It was not possible to contact them as the phone number on the Response form was not legible and there were no other contact details.

5. I explained to the Claimant that this was his claim and the burden of proof rested with him.

The facts and conclusions

6. In relation to the claim for holiday pay, the Respondent did not attend to rebut the evidence of the Claimant that he was owed £1,353.85. They did send to the Tribunal a schedule of payments made to the Claimant but there was no commentary attached to it. Accordingly, that claim succeeded.

7. The position in relation to the unauthorised deductions was clearer. The claim was that the Claimant's hours of work were 40 each week but, as he worked 50 hours most weeks, he should have been paid for an extra 10 hours each week. He had no records or calculations to support this claim. The contract of employment, however, provided that any hours worked over 40 in a week did not entitle the Claimant to any further payment in the absence of a specific agreement to the contrary. There was no such agreement produced to us. Accordingly, the claim for unauthorized deductions must fail.

8. The Claimant complained he was not always provided with payslips and said 5 were missing. This had financial repercussions for the Claimant in relation to an application he had made for a mortgage but I explained I had no jurisdiction to make an award in relation to this. The right to an itemised payslip is a fundamental right of an employee and I awarded 2 weeks pay as compensation for the Respondent's breach of this right.

Employment Judge M Butler

Date 28 November 2024

JUDGMENT & REASONS SENT TO THE PARTIES ON

.....28 November 2024.....

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FOR THE TRIBUNAL OFFICE