



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4102723/2024

5

Held in Glasgow via Cloud Video Platform (CVP) on 24 April 2024

Employment Judge N M Hosie

10 Mrs Kirstin O'Donnell

Claimant
Represented by:
Mr N Paterson -
Solicitor

15 RT Online Services Ltd

Respondent
No appearance and
No representation

15

20

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Tribunal is that: -

25

30

1. the claim under s.23 of the Employment Rights Act 1996, is well-founded and the respondent shall pay to the claimant the sum of **£1,094.48** (One Thousand and Ninety Four Pounds and Forty Eight Pence), as unlawful deductions from wages;
2. the claim under Regulation 30 (1) (b) of the Working Time Regulations 1998 is well-founded and the respondent shall pay to the claimant the sum of **£294.84** (Two Hundred and Ninety Four Pounds and Eighty Four Pence), as a payment in lieu of annual leave; and
3. the respondent shall pay to the claimant the sum of **£1,265.76** (One Thousand, Two Hundred and Sixty Five Pounds and Seventy Six Pence), in respect of the respondent's failure to provide the claimant with a written statement of particulars of employment.

REASONS

Introduction

1. The claimant, Mrs Kirstin O'Donnell, brought various claims following her resignation from her employment on 25 August 2023. I was satisfied that her employer was "RT Online Services Limited". The respondent had not submitted an ET3 response form. The case proceeded, therefore, on an undefended basis.

The evidence

2. I heard evidence from Mrs O'Donnell at the Hearing. She was represented by a solicitor, Mr Paterson, who had submitted a bundle of documents ("P"). Mrs O'Donnell gave her evidence in a measured, convincing manner, entirely consistent with the documentary productions. She presented as credible and reliable.

The facts

3. Having heard Mrs O'Donnell's evidence and considered the documentary productions, I was able to make the following findings in fact. Mrs O'Donnell commenced her employment with the respondent on 27 July 2023. She was employed as a "Vaped 4 U Manager". Her employment ended on 25 August 2023 when she resigned.
4. I was referred to the first payslip which she received for the 3 days she worked in July (P48). Her gross pay was £378.27.
5. She also produced her payslip for August (P49). Although she worked 12 days that month, her gross pay was only £420.30 (P49).

Unlawful deduction from wages

6. The claimant's solicitor produced a detailed Schedule of Loss (P46). I am satisfied that his calculations are accurate: -

"In August, she worked 12 days x 9 hours therefore she should have been paid £1,518.48 (gross). She was paid £420.30 gross/net in respect of her

*work (less £45 in respect of a deduction for her uniform). The claimant contends that the unlawful deduction was **£1,094.48.***”

7. I am satisfied that this sum was unlawfully deducted from her wages and that this sum requires to be paid by the respondent to her.

5 **Accrued annual leave**

8. I am also satisfied that the calculations by the claimant’s solicitor in this regard are accurate (P47): -

10 *“The claimant was employed for one month therefore she would have accrued statutory holiday entitlement of 20.97 hours. Based on her hourly salary of £14.06, this would entitle her to **£294.84** (gross).”*

9. This sum also requires to be paid by the respondent to her.

Written particulars of employment

10. Mrs O’Donnell was not provided with a written statement of particulars of employment as she should have been, in terms of s.1 of the Employment
15 Rights Act 1996.

11. *Tribunals must* award compensation to an employee where, upon a successful claim be made under any of the Tribunal jurisdictions listed in schedule 5 of the Employment Act 2002, it becomes evident that the employer was in breach of its duty to provide full and accurate written particulars. Both
20 her successful claims are listed in Schedule 5.

Amount of award

12. Tribunals *must* award a “minimum amount” of two weeks’ pay in respect of such a failure, in addition to the other awards. I am satisfied that Mrs O’Donnell’s weeks’ pay was £632.88 (P46). Accordingly, she is also entitled
5 to a payment of **£1,265.76** (£632.88 x 2), in this regard.

Employment Judge: N Hosie
Date of Judgment: 30 April 2024
Entered in register: 01 May 2024
10 **and copied to parties**