



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss A.N.Tipsie

**Respondent:** Bakereva Limited

**Heard at:** London South **On:** 1 September 2017

**Before:** Employment Judge Cheetham

## Representation

Claimant: in person  
Respondent: no appearance

# JUDGMENT

1. The claim for unauthorised deduction of wages succeeds.
2. The Respondent will pay the Claimant:
  - (i) Unpaid wages for the period 1 January to 7 February 2017 in the sum of £1762.82.
  - (ii) Unpaid holiday pay in the sum of £1303.05.
  - (iii) The Claimant's total entitlement is therefore **£3,065.87**.
3. The Respondent's counter-claim is dismissed.

# REASONS

1. This is a claim of unauthorised deduction of wages, including holiday pay. The Respondent filed a fully argued response, but did not attend the hearing. After carrying out the usual checks, the Tribunal decided to proceed in its absence. It noted that the hearing date had been sent to the parties on 18 May 2017 and a voice message had been left by the Tribunal on the previous day, reminding the Respondent about the hearing date.

## Findings of fact

2. The Claimant was employed by the Respondent from 7 May 2016 until 7 February 2017. Her net pay was £1037 per month, with payment made in arrears at the end of the month.
3. At the start of February 2017, the Claimant found out that she had not been paid her January wages. She subsequently resigned on 7 February, so her claim was for the unpaid wages up until that date and accrued holiday pay. From the Response, it was apparent that this was not in issue. The Respondent alleged misconduct on the Claimant's behalf (although there was no suspension or disciplinary process) and seemed to understand that this justified withholding her wages. Whatever the rights and wrongs of the Claimant's conduct, it was not open to her employer simply to stop paying her.
4. The Respondent also wished to bring a counter-claim as follows: £1750 for money allegedly stolen by the Claimant, £365 for fitting new locks and £5,400 for lost sales. There was no basis for bringing these claims as a counter-claim in the employment tribunal and the counterclaim is dismissed.

## Calculations

5. The January wages were in respect of 186 hours at £8.50 per hour, which is £1581; the February wages were in respect of 37 hours at £8.50 per hour, which is £314.50, giving a total of £1,895.50. That is a gross figure. From the Claimant's payslips, the average deduction each month was about 7%, which the Tribunal therefore applied to the gross figure, giving a total of £1762.82.
6. The Claimant's evidence was that she did not take any holidays. Her statutory entitlement was 28 days per year and she was employed for 9 months, which means she was entitled to 21 days' leave. Basing the calculation on a 7.3 hours days at £8.50 per hour (£62.05 per day), her entitlement was £1303.05 (payable as a gross figure). The Claimant's total entitlement is therefore £3,065.87. The Claimant was not in receipt of benefits.

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Employment Judge Cheetham  
17 September 2017