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EMPLOYMENT TRIBUNALS

Claimants: Mrs J Begum
Mrs K Rahman
Mrs K Nahar

Respondent: Water Gate Support Services Limited

Heard at: East London Hearing Centre

On: 10 September 2018

Before: Employment Judge Brown

Representation

Claimants: In Person

Respondent: Stella Tulloch

JUDGMENT

The judgment of the Tribunal is that:-

1. The Respondent made unlawful deduction from each of the Claimants' wages.
2. The Respondent shall pay £843.60 to Mrs Begum on account of unlawful deductions from wages.
3. The Respondent shall pay £1,341 to Mrs Rahman on account of unlawful deductions from wages.
4. The Respondent shall pay £945.50 to Mrs Nahar on account of unlawful deductions from wages.

REASONS

1 Mrs Begum originally sent a claim form to the Employment Tribunal on 23 May 2018, bringing a claim against Stella Tulloch as named Respondent. That name was different to the name for the Respondent stated on the Early Conciliation Certificate (EC Certificate). The Early Conciliation Certificate stated that Water Gate Support Services Limited. The Early Conciliation Certificate covered the period 20 April 2018 to 10 May 2018. The Employment Tribunal rejected Mrs Begum's original claim because of this difference the names of the Respondent.

2 On 26 June 2018 the Claimant amended her claim, to show the name of the Respondent as Water Gate Support Services Limited. The Employment Tribunal accepted the claim and sent the claim to the Respondent on 6 July 2018, giving notice of this hearing on 10 September 2018. The Tribunal told the Respondent, if the Respondent wished to defend the claim, it must present a response by 3 August 2018. No response was received by the Employment Tribunal and the Claimant was entitled to have a Rule 21 Judgment entered in her favour.

3 Mrs Rahman presented a claim claiming unlawful deductions from wages against Stella Tulloch on 29 May 2018. She had obtained an Early Conciliation Certificate naming Water Date Support Services Limited as the Respondent. The claim was rejected because the Respondents' names on the ET1 and the Early Conciliation Certificate were different. Mrs Rahman amended her claim on 25 June 2018, to show Water Gate Support Services Limited as the Respondent. That claim was accepted and the Tribunal sent a letter to the Respondent on 6 July 2018, giving notice the hearing on 10 September 2018. Again, the Respondent was told that, if it wished to defend the claim, then it must submit a response by 3 August 2018. The Respondent did not present any response to the claim and, again, Mrs Rahman was entitled to have a Rule 21 judgment entered in her favour in respect of her claim for unlawful deductions from wages.

4 Mrs Nahar originally presented a claim for unlawful deductions from wages on 31 May 2018, naming Stella Tulloch as Respondent. The Employment Tribunal rejected it because the name for the Respondent on the Early Conciliation Certificate was not the same. Mrs Nahar amended her claim on 2 July 2018, showing Water Gate Support Services Limited. The Tribunal accepted the claim. On 6 July 2018 the Tribunal sent Mrs Nahar's claim to the Respondent, giving notice of the hearing on 10 September and telling the Respondent that, if it wished to defend the claim, it must present a response by 3 August 2018. Once more the Respondent did not submit a response and Mrs Nahar was entitled to have a Rule 21 judgment entered in her favour.

5 The claims were all submitted together and each named the other Claimants as parties to the claim. In both Mrs Begum's claim and Mrs Rahman's claims, they said that they had had discussions with the Respondent and that the Respondent had told them that payment would be made to them on 4 May 2018. It seemed to me therefore that that was the date on which the payment ought to have been made to the Claimants. By s23(2) *ERA 1996*, an employment tribunal shall not consider a complaint of unlawful deductions from wages unless it is presented before the end of three months beginning with the date of payment of wages from which the deduction was made.

6 The Claimants were claiming that, contrary to their agreement with the Respondent, the Respondent had not paid them on 4 May 2018. That was the date of the payment of wages from which deductions were made. Time for presenting a complaint ran from 4 May 2018. Therefore, the claims accepted by the Tribunal were in time, taking into account the three months time limit and the extra period of Early Conciliation which needed to be added.

7 The Claimants attended today. The Respondent also attended today through its Director, Stella Tulloch. She told the Tribunal that she had been unwell and asked for extra time to submit a Response to the claims. She did not produce a draft response, nor evidence of illness, whether in the form of a GP certificate, or letter, or otherwise.

8 I decided that no good reason had been shown for the failure to respond to the claims. No medical evidence was produced and no evidence of any substantive response was indicated. I therefore decided that I would not allow the Respondent any further time to respond to the claims. Nevertheless, I did allow the Respondent's Ms Tulloch to participate in the hearing, to cross examine the Claimants and to challenge the amount of wages that the Claimants were claiming.

9 I heard evidence from each of the Claimants.

10 Mrs Rahman who told me that she had calculated that she had worked for a total of 149 hours, at £9.00 an hour, for which she had not been paid. She produced time sheets and calculations of the hours worked, noted on the timesheets.

11 Ms Tulloch cross-examined her. She put it to Mrs Rahman that Mrs Rahman had not shown Ms Tulloch the time sheets at the relevant time. Ms Tulloch challenged Mrs Rahman by pointing out that the name and address of the relevant service user had not been recorded on each of the time sheets.

12 Mrs Rahman showed the Tribunal evidence, on her telephone, that she had sent photos of the timesheets to the Respondent, setting out her claims for hours worked. She also pointed out that her timesheets were in respect of one service user, the name and address of whom had been recorded on the covering timesheet. She pointed out that each of the payment periods had been signed for by the service user.

13 I accepted Mrs Rahman's evidence that the timesheets were genuine. While the Respondent's Ms Tulloch said that she had relevant documentation "at the office," she had not brought any documentation to the Tribunal to challenge the times claimed by Mrs Rahman. I therefore accepted Mrs Rahman's evidence that she had worked for 149 hours, as evidenced by her timesheets, for which she had not been paid.

14 I ordered the Respondent to pay Mrs Rahman £1,341 for the work that she had done, but for which she had not been paid.

15 Mrs Nahar also gave evidence. She produced timesheets and told me that she had worked for 105 hours 15 minutes, at £9.00 an hour, for which she had not been paid. Mrs Nahar said that she had been paid £1,782 for other work, but was not paid the outstanding amount of £945.50.

16 Ms Tulloch cross-examined Mrs Nahar and said that the client for whom Mrs Nahar had worked, and in respect of whom Mrs Nahar had been paid £1,782, had left the service shortly after the payment of £1,782 had been made. Ms Tulloch therefore said that Mrs Nahar could not possibly have worked an extra 105 hours and 15 minutes, so as to be owed £945.50. Mrs Nahar said that she had worked extremely hard, attending emergency call outs, and had also worked alongside Mrs Begum when caring for one particular service user. Mrs Nahar pointed out that the Respondent was not disputing Mrs Begum's hours. Mrs Nahar produced timesheets which appeared to have the service users' and addresses on each of them, which had been countersigned appropriately. I accepted her evidence that she did work for an extra 105 hours and 15 minutes, but had not been paid for that work. I ordered the Respondent to pay Mrs Nahar £945.50 in unpaid wages.

17 Mrs Begum gave evidence to the Tribunal. She told me that she had worked 140 hours and 20 minutes in one payment period and that she should have been paid £1,263 for this work, but that the Respondent had paid her only £1,004.40, so that she was owed £258.60. During the second time period for which she was claiming, Mrs Begum said that she had worked 65 hours, as evidenced by her time sheets, and had earned £585, but had not received any payment at all. She said therefore that she was owed £843.60. Mrs Tulloch said that she did not dispute Mrs Begum's claim. She accepted that Mrs Begum had attended the offices with her timesheets, which had been properly signed and validated. I therefore accepted Mrs Begum's evidence that the Respondent failed to pay her wages of £843.60 and I ordered the Respondent to pay that sum to Mrs Begum.

Employment Judge Brown

14 September 29018