



EMPLOYMENT TRIBUNALS

Claimant: Mr M Colgate
Respondent: Total Highways Maintenance Ltd
Heard at: East London Hearing Centre (by telephone)
On: 26 July 2021
Before: Regional Employment Judge Taylor

Representation

Claimant: In person
Respondent: Response not entered.

JUDGMENT

1. The respondent made unauthorised deductions from the claimant's wages.
2. The respondent is ordered to pay to the claimant the sum of £4050,00 (gross), being the total amount.

REASONS

1. The claim was issued in the London East Employment Tribunals on 7 January 2021. The respondent has failed to present a valid response on time (by 22 February 2021). A notice of today's hearing was sent to the parties on 25 January 2021.
2. The tribunal wrote to the respondent on 6 July 2021 informing it that a judgment may now be issued and may only participate in the proceedings to the extent will permitted by a judge.
3. In response to this letter the respondent wrote to the tribunal claiming that they were unaware of the case.
4. In a letter dated 21 July 2021 the respondent was directed to complete a draft ET3 and explain why it had not submitted the ET3 on time.

5. On the day of the hearing the respondent requested a postponement of the hearing. Given that the respondent had not presented an ET3, the hearing proceeded as listed. The respondent has not entered a response. Therefore, the respondent is not entitled to take part in these proceedings.
6. Having heard the claimant and having considered a copy of his terms of employment the Tribunal has decided that a determination can properly be made of the claim.
7. The claimant was employed as a Gully Operator for the respondent, which is a company that provides highway systems to facilitate the laying cables for their clients. The claimant's main duties was operating a high pressure water jet lorry.
8. The claimant started his employment on 5 February 2018. The claimant was contractually entitled to receive pay at the rate of £150 a day; £15 per hour. The claimant worked 5 nights a week (8.00pm to 6.00am), Monday to Friday. He was paid without difficulty until September 2020, when the respondent started to pay him (and others) sporadically. The claimant had not agreed a variation to the terms and conditions of employment and was entitled to payment of his wages even when work was not available. The claimant was ready and available to work at all material times.
9. The claimant claims 27 days pay for the period: Friday 11 September 2021 until Monday 9 November 2021. During this period the claimant worked for 27 days on which either payment not paid or, he was ready to work, but his shift was cancelled, and he did not receive payment for it.
10. Over several weeks, the claimant informed the respondent's managers that the sums were not paid and did his best to resolve the matter directly with the respondent and through ACAS, but, he says, disappointingly all of his attempts have been unsuccessful.
11. The judgment of the tribunal is that:

The respondent made unauthorised deductions from the claimant's wages;

The respondent is ordered to pay to the claimant the sum on £4050,00 (gross).

Regional Employment Judge Taylor
Date: 26 July 2021