



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr B Phillips  
**Respondents:** TBC Consultants Limited  
**Heard at:** East London Hearing Centre (Via BT MeetMe)  
**On:** 19 July 2021  
**Before:** Employment Judge Crosfill

## Representation

**Claimant:** In person  
**Respondent:** No appearance or representation

**UPON** the Respondent failing to present a response within the period prescribed by rule 16 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 and thereafter failing to make an application in compliance with rule 20.

**AND UPON** the Respondent not furnishing any contact details to permit participation in the hearing and the Tribunal attempting to contact the Respondent on the telephone numbers in the footer of e-mails sent to the Tribunal and on a mobile telephone number supplied by the Claimant.

**AND UPON** the Tribunal exercising its power under rule 47 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 and deciding that it is in the interests of justice for the hearing to proceed.

**AND UPON** hearing sworn evidence from the Claimant and reading the ET1, ET3 and all the documents in the tribunal file.

**AND UPON** the Tribunal finding that the agreement reached between the Claimant and Respondent provided for less pay than required to meet the obligation to pay the National Minimum Wage.

# JUDGMENT

1. The Claimant's claim for unlawful deduction from wages brought under Section 23 of the Employment Rights Act 1996 is well founded.
2. It is declared that the Respondent deducted the sum of £705.02 from the Claimant's Wages due in October 2020. The said sum is calculated as set out below.
3. The Respondent is ordered to pay the Claimant the sum of **£705.02**.
4. The Claimant's application for a preparation time order is dismissed.

## Calculations

1. The Claimant entered a contract with the Respondent on 2 October 2020 and commenced work on 12 October 2020.
2. The Claimant worked for 7 hours on 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27 October 2020 and for 20 minutes on 28 October 2020. A total of 84.33 hours.
3. The Respondent had agreed to pay the Claimant £250.00 for his first month's work.
4. The Tribunal determined that the Claimant had undertaken 84.33 hours of work for the purposes of the National Minimum Wage Act 1998 and the National Minimum Wage Regulations 2015.
5. In calculating the sum due to the Claimant the Tribunal is obliged to have regard to the requirement to pay the national minimum wage.
6. Regulation 17 of National Minimum Wage Act 1998 and the National Minimum Wage Regulations 2015 provides the mechanism for calculating any shortfall of payment.
7. The hourly rate that must be applied pursuant to regulation 17 is £8.36 (the Claimant being 21 years of age when the work was done).
8. The Respondent was therefore obliged to pay the Claimant  $84.33 \times £8.36 = £705.02$ .

9. The Respondent did not pay the Claimant anything in respect of the work that he carried out.

**Employment Judge John Crosfill  
Date: 19 July 2021**