



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs Rachel Branford

**Respondent:** Eleanor X Guillaume Limited

## JUDGMENT

- (1) This Judgment is issued under rule 21 of the Employment Tribunals Rules of Procedure, following a telephone preliminary hearing on 20 April 2018 before Employment Judge Camp, where the claimant was represented by Ms K Ephraim from the Free Representation Unit and the respondent did not appear.
- (2) The respondent made unauthorised deductions from the claimant's wages totalling £626.86, which sum must be paid by the respondent to the claimant, made up as follows:
  - (a) £579.38 non-payment for work done;
  - (b) £22.58 underpayment, due to paying the claimant at a rate below the national minimum wage;
  - (c) £24.90 non-payment for annual leave that was taken and which the claimant was entitled to be paid for under the Working Time Regulations.
- (3) Pursuant to section 38 of the Employment Act 2002, the respondent must pay the claimant an additional sum of £284, being 2 weeks' pay, for failure to provide a statement of employment particulars in accordance with section 1 of the Employment Rights Act 1996.
- (4) The total amount that must be paid by the respondent to the claimant is: **£910.86**
- (5) The hearing due to take place on 4 May 2018 is cancelled.
- (6) This Judgment is made and takes effect on 20 April 2018.

## REASONS

1. Reasons would not normally be provided for a rule 21 judgment. These Reasons are provided because the judgment was made in light of information provided at a preliminary hearing, and because there would need to be some written record of that preliminary hearing anyway.
2. This is a straightforward claim for unauthorised deductions from wages, relating to the claimant's employment from 22 May to 29 July 2017 as a sales assistant



at the respondent's shop on Bridge Street in Bakewell, which has since closed. The amounts claimed and the basis of the claim is set out in the Judgment above and no more needs to be said about it. The respondent also, according to the claim form, failed to provide a statement of employment particulars within 2 months of the claimant starting work, and accordingly an award has been made under section 38 of the Employment Act 2002 as well.

3. The case has been complicated by various misunderstandings by the tribunal, largely the tribunal's fault, leading to what I think it is fair to describe (with the benefit of hindsight) as administrative and judicial mistakes. In particular:
  - 3.1 the claimant was only ever making her claim against Eleanor X Guillaume Limited ("the Company"). In her claim form, she gave as the company's address the address where she worked. Shortly after the claim was presented, but before it had been processed by the tribunal, she informed the tribunal that the shop at those premises was closed. She provided an address for the Company care of a shop with trading name of "*Coinsidence Lifestore*" in Kelham Island, Sheffield. Although she referred to wanting "*to add a respondent to this claim*", what she clearly meant in the context was that the Company's new premises were the premises in Sheffield;
  - 3.2 to confuse things further, the tribunal administration then substituted "*Coinsidence Lifestore*" for the Company as a respondent, and only served the proceedings on the Sheffield premises;
  - 3.3 ultimately, the Company was added back as a respondent and the proceedings were served on the Company at the address provided in the claim form. It was given until 19 March 2018 to present its response and did not do so, by that date or at all;
  - 3.4 the address the claimant originally gave for the Company – 2 Bridge Street – is not its registered office address. Its registered office address is: Unit 1, Thame Court, Bridge Street. I understand that, in fact, there is no such place as Thame Court on Bridge Street and that, perhaps, it should be Theme Court. However, when I looked at addresses online on the Royal Mail website, nothing like Thame Court or Theme Court on Bridge Street in Bakewell was there. Further, it is not clear whether the Company any longer has any connection with any address on Bridge Street, and it seems eminently possible that the Company has moved addresses without notifying Companies House;
  - 3.5 according to the claimant's witness statement, she sent a letter before action to the respondent at the 2 Bridge Street address by recorded delivery on 29 August 2017 and it was signed for by (the claimant thinks) one of the respondent's directors and she sent a further letter before action by email and post to that address on 11 October 2017 and again it was signed for on behalf of the company. There was no reply either time;



- 3.6 to complete the picture, one of the directors of the Company has as his registered correspondence address with Companies House, “Bridge Street, Bakewell” (no number is provided). I understand from the claimant’s witness statement that he and the other director are the people operating “*Coinsidence Lifestore*”.
4. On the basis of the material I have, then, I am satisfied that the claim form has been validly served on the respondent and that it has come to the respondent’s attention and has been ignored or, at least, that it ought to have come to their attention. There is no discernible good reason not to give judgment in the claimant’s favour under rule 21.

Employment Judge Camp

20/04/2018

SENT TO THE PARTIES ON

23 April 2018

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FOR THE TRIBUNAL OFFICE