

EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: S/4100221/2018

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Held in Glasgow on 10 April 2018

Employment Judge: Mr R Gall

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Ms A Chapman

**Claimant
Represented by:-
Mr W McPartland –
Solicitor**

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RT Management Ltd

**Respondent
Not Present and
Not Represented**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

25 The Judgment of the Tribunal is that: –

(1) the respondents are ordered to pay to the claimant a monetary award of **Three Thousand, Six Hundred and Thirteen Pounds, Eighty Eight Pence (£3,613.88)**. The prescribed element is £1,945.88. It relates to the period from 24 October 2017 to 10 April 2018. The monetary award exceeds the prescribed element by £1,668.

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(2) the respondents are ordered to pay to the claimant the sum of **One Hundred and Seventy Four Pounds, Ninety Eight Pence (£174.98)** in respect of unauthorised deduction from wages in terms of section 23 of the Employment Rights Act 1996.

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REASONS

- 1 This case called for hearing at Glasgow on 10 April 2018. The claimant appeared in person. She was represented by Mr McPartland. Productions were lodged on her behalf.
- 5 2 Judgment on liability in the case had already been issued. It was dated 15 March 2018 and issued to parties on 26 March 2018. That Judgment determined that the claims made of unfair dismissal, breach of contract and unauthorised deduction from wages were successful. A remedy hearing was set down.
- 10 3 I heard evidence from the claimant, Ms Chapman. Her evidence was supplemented by documents to which she referred in evidence.
- 4 Mr Chapman was dismissed on 24 October 2017. She made efforts straight away to find alternative employment. She obtained a job very quickly as a result of those efforts.
- 15 5 Mr Chapman had been working 16 hours per week with the respondents. She was paid the minimum wage in respect of those hours. The employment of which she obtained is such that she is now working 10 hours per week. Her rate of pay continues to be that of the minimum wage.
- 6 There was a period between Mr Chapman finding new employment at the beginning of November 2017 and starting her new job in January 2018. That was necessary in order that references could be obtained and that checks in relation to criminal records and disclosure were also in place.
- 20 7 Mr Chapman commenced her new employment on 4 January 2018. Before she started this work, she continued looking for alternative employment with more hours than in the job she obtained. She has also since 4 January made it known to her employers that she is available for more hours than the 10 hours per week she currently works. She has kept her eye open for alternative employment with a different employer which would result in her obtaining
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more hours of work. Nothing has however come of these steps taken by her so far.

8 I was satisfied that Ms Chapman had made diligent efforts to find alternative
employment and continued to look for greater hours than those which she
5 currently works. The onus is of course not on her in any event. She has been
unfairly dismissed. Case law is clear in that the onus to show that someone
in that situation has not mitigated their loss lies on the respondents.

9 In the period to date of Tribunal from loss of her employment with the
respondents, the claimant has suffered financial loss of £2,880. That is what
10 she would have earned from the respondents in that time. She has received
from her new employer the sum of £934.12. This means that her loss to date
of the Tribunal is £1,945.88. That is the prescribed element.

10 Ms Chapman sought ongoing loss in respect of a period of 52 weeks. Given
her efforts to date to find alternative employment or a greater number of hours
15 within her current employment, which efforts have been unsuccessful, it
seemed to me appropriate to award this ongoing loss for a period. I was
conscious that, despite efforts, Ms Chapman has been unable to obtain
increased hours since January 2018. I was also satisfied that she would
continue her efforts to find additional hours within her current role or different
20 employment with greater hours.

11 It does seem to me however that awarding loss for a period of 52 weeks
involves a slightly high period. It is not clear that there will be a job with
additional hours either with Mr Chapman's current employers with a different
employer. There is, however, nothing currently available from either source
25 and there is nothing in the pipeline in that regard.

12 I require to award what I considered just and equitable. I came to the view
that it was appropriate to award loss on an ongoing basis for 40 weeks.

13 There was an increase in the minimum wage recently. The ongoing loss to
Ms Chapman through her new employment as opposed to employment with

the respondents is £41.70 per week. Applying that loss over a 40 week period means an award of £1,668. The monetary award therefore involves addition of the prescribed element of £1,945.88 to the amount awarded for ongoing loss, £1,668. The monetary award is therefore £3,613.88. The monetary award exceeds the prescribed element by £1,668.

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14 Recoupment is appropriate given that there has been an element of Universal Credit received by Ms Chapman.

15 In addition to loss arising from the unfair dismissal, there were two amounts deducted from wages otherwise due to Ms Chapman. She did not consent in writing to those deductions nor is there any basis in her contract of employment for such amounts to be deducted. The amounts are £122.48 and £52.50. The total of those amounts is £174.98.

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16 The respondents are therefore ordered to pay to the claimant both elements mentioned, the monetary award, subject to recoupment and the amount in respect of unauthorised deductions from wages.

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Employment Judge: R Gall
Date of Judgment: 11 April 2018
Entered in register: 18 April 2018
and copied to parties

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