



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss J Cropley

**Respondent:** VPS PVT Limited

**Heard at:** Leicester (by CVP)

**On:** 29 February 2024

**Before:** Employment Judge Welch

## REPRESENTATION:

**Claimant:** In person

**Respondent:** No attendance

# JUDGMENT

The judgment of the Tribunal is as follows:

## Wages

1. The complaint of unauthorised deductions from wages is well-founded. The respondent made an unauthorised deduction from the claimant's wages in the period 17 July 2023 to 2 August 2023.
2. The respondent shall pay the claimant **£828.39**, which is the gross sum deducted. The claimant is responsible for the payment of any tax or National Insurance.

## Holiday Pay

3. The complaint in respect of holiday pay is well-founded. The respondent made an unauthorised deduction from the claimant's wages by failing to pay the claimant for holidays accrued but not taken on the date the claimant's employment ended.
4. The respondent shall pay the claimant **£504.33**. The claimant is responsible for paying any tax or National Insurance.

# REASONS

1. The claimant was employed by the respondent as a counter clerk since 20 January 2023. Her employment ended on 2 August 2023.
2. On 21 September 2023, the claimant issued proceedings in the Employment Tribunal following a period of early conciliation that started on 2 September 2023 and finished on 20 September 2023. The claim was for unpaid holiday pay and unpaid wages. The respondent appeared to accept in its response that it owed the sum of £781.50 (gross) in respect of unpaid wages and the sum of £425.13 (gross) in respect of holiday pay.
3. The respondent stated in its response that sums in respect of holiday pay and wages were “waiting to be agreed & paid with ACAS COT3 agreement” although it was unclear why an ACAS COT3 agreement was required if this was the correct amount due to the claimant.
4. Both parties were ordered on 27 October 2023 to send each other calculations of how much was owed together with copies of documents and witness statements. Neither party has complied with this, although the respondent had sent some documents with its response, which included a Direct Earnings Attachment Notice relating to the claimant. No further documents or statements were received despite the parties being chased to do so.

5. The hearing took place remotely via CVP. The parties had been informed that it was a remote hearing (to be held via CVP) on 27 October 2024 and joining instructions had been sent to them in readiness for the hearing.

**The hearing**

6. The claimant attended the Nottingham Employment Tribunal in person having mistakenly believed it was an attended hearing. There was no attendance by the respondent, either in person or remotely. The claimant was able to use a hearing room in Nottingham Employment Tribunal and joined the remote hearing from there.
7. The clerk called the respondent on two occasions on the telephone number provided by the claimant on the claim form. The respondent had not provided a telephone number on its response. The respondent did not answer the calls. I arranged for an email to be sent to the respondent saying that the hearing was proceeding remotely and that the respondent should reply by return to confirm if it was intending to attend. It attached the joining instructions for the CVP hearing. The respondent was informed that the hearing would go ahead should no reply be received.
8. In light of the admission contained within the respondent's response form, and its failure to respond to the email, I considered it appropriate and in accordance with the overriding objective to proceed with the hearing in its absence. The hearing commenced after 10.30am in order to give the respondent the opportunity to attend.

9. The claimant gave sworn evidence and was subjected to questions from me in relation to her claim.
10. I gave my Judgment orally but have provided written reasons in any event as the respondent failed to attend.

**Findings of fact**

11. The claimant was employed as a counter clerk by the respondent from 20 January 2023 to 2 August 2023.
12. She worked 24 hours a week, and sometimes worked over this amount.
13. During the period 17 July 2023 to 2 August 2023, the claimant worked 79.5 hours, for which she was not paid. This totals £828.39.
14. Her holiday entitlement was 5.6 weeks a year which was calculated as 134.4 hours' holiday a year, including any bank holidays for which she did not work and was paid. Her pro rata entitlement for the time she was employed was 72.4 hours' holiday pay.
15. The claimant confirmed that she worked bank holidays during her employment with the respondent and therefore had not taken holidays on these days. However, she confirmed that she had taken holiday of 24 hours for the week 12 to 17 July 2023, which had been paid. Whilst she had a further week of holiday booked for 14 to 19 August 2023, her employment had ended by this point. She confirmed that she had not been paid for this holiday in any event.
16. This meant that her holiday pay entitlement which had not been paid was 48.4 hours at £10.42 an hour. Her unpaid holiday was therefore £504.33.

## Law

17. Section 13 ERA provides protection for employees in respect of unlawful deductions from wages. It provides:

*“(1) An employer shall not make a deduction from wages of a worker employed by him unless—*

*(a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or*

*(b) the worker has previously signified in writing his agreement or consent to the making of the deduction.*

...

*(3) Where the total amount of wages paid on any occasion by an employer to a worker employed by him is less than the total amount of the wages properly payable by him to the worker on that occasion (after deductions), the amount of the deficiency shall be treated for the purposes of this Part as a deduction made by the employer from the worker's wages on that occasion....”*

## Conclusion

18. I am satisfied that the claimant was entitled to receive the sum of £828.39 in respect of unpaid wages and £504.33 in respect of unpaid holiday, which were both deducted from her pay.

19. In light of these findings, the claimant's claims succeed and she is awarded the gross total sum of £1,333.72 for unpaid wages and unpaid holiday pay.

**Employment Judge Welch**  
**29 February 2024**

Judgment sent to the parties on:

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For the Tribunal:

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