

JE/RM



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms ES Amaeshi  
**Respondent:** First Kare Limited  
**Heard at:** East London Hearing Centre  
**On:** 5 March 2018  
**Before:** Employment Judge W A Allen

## Representation

**Claimant:** Ms EA Amaeshi  
**Respondent:** First Kare Limited

# JUDGMENT

**The Respondent is ordered to pay to the Claimant the sum of £5,570.00.**

# REASONS

1 This is a claim for unlawful deductions from wages brought by the Claimant by a claim form presented on 12 December 2017. The Claimant attended today and represented herself. The Respondent has chosen not to attend this hearing. The Respondent was first notified of the date of the hearing by the Tribunal on 19 December 2017. In the same letter, the Respondent was informed of the need to submit a form ET3 in response by 16 January 2018. The Respondent did submit an ET3 form on 16 January 2018 and has corresponded with the Tribunal. The matter was listed today at 12 noon. When the Respondent did not attend, it was contacted by telephone by the tribunal clerk who was told that the Respondent had had no notice of the hearing. I did not accept the veracity of that assertion given the facts outlined above.

2 The Respondent which is based locally, was told by the Tribunal clerk that the hearing would be put back until 14.00 to give it the opportunity to attend. The Respondent did not attend but sent an email to the Tribunal at 13.40 which states as follows "... I had received email from Claimant Ms ES Amaeshi, and I replied back to her to send me original copy of passport, NI and proof of address for certain purposes so that the sum of

£1041.50 which is due to her can be paid. Up to the time of writing I have not received her response”.

3 The Claimant’s contact of employment stated that she is entitled to be paid £23,000 gross per annum. She worked for the Respondent from 11 May 2017 until 27 August 2017, a period totalling 15 weeks. She did not receive any pay for any of that period. She did not work for the first two weeks in August 2017 because of the non payment by the Respondent. She returned to work for the last two weeks before 27 August 2017 on the promise of payment by the Respondent, which was not realised.

4 Therefore she is entitled to be paid for 13 of her total 15 weeks of employment at a gross total of £5750.00.

5 It is not possible for the Tribunal to work out the tax or national insurance (if any) which may or may not be due on this sum and therefore, the amount is ordered to be paid gross by the Respondent and the Claimant must account to HMRC for tax due, if any.

6 The Respondent has raised as a potential defence both in the email today and also in the claim form, an issue as to the Claimant’s right to work in the UK. The Claimant has proved to my satisfaction that she has the right to work in the UK and had so at the dates of her employment by the Respondent. She has provided to the Tribunal a copy of her national insurance number card and also a residence document from the Home Office which is endorsed within her passport and which expressly states that she is allowed employment and business activities. It was issued on 6 November 2013 and is valid until 3 November 2018.

7 I accepted the Claimant’s evidence that she gave this documentation to the Respondent at the commencement of her employment and in any event, I considered that reliance on the Claimants right to work or otherwise, which may be relevant to whether the Respondent should have employed someone or should continue to employ them, is not an adequate defence to a claim for wages for a period which has been worked.

Employment Judge Allen

8 March 2018