



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr J Fawcett

**Respondent:** Writtech Industrial Service Limited

**Heard at:** Manchester (remotely; by CVP)

**On:** 14 November 2022

**Before:** Employment Judge Warren (sitting alone)

## Representatives

For the claimant: In person

For the respondent: Mr J Kinsey (Solicitor)

# JUDGMENT

The judgment of the Tribunal is that:

1. The claim of breach of contract is out of time. The Tribunal has no jurisdiction to hear it.
2. The claim for holiday pay is out of time. The Tribunal has no jurisdiction to hear it.
3. The claim of unlawful deduction of wages is in time, having been submitted on 24 August 2022 when the limitation period expired on 10 September 2022.
4. There being no contractual claim outstanding, the counterclaim is struck out as the Tribunal has no jurisdiction to hear it.

## Case Management Discussion

5. Having reached the above judgment, and reasons having been given orally, we then moved into a case management discussion to deal with the unlawful deduction from wages claim.

6. The claimant indicated that he had been advised by the respondent's solicitors that he should have no contact at all with any member of staff who remained in the employ of the respondent. Mr Kinsey agreed that the claimant should be able to communicate with current employees if they were to have material evidence that he would wish to call on his behalf at the hearing. It was agreed by the

claimant that to facilitate this, he would communicate initially with those witnesses through the respondent's solicitors. Having made contact, however, he would then be free to speak to them at will.

7. The respondent sought further and better particulars of the claim and the claimant agreed to prepare these. He will do so by preparing the witness statement that he will use in the hearing, and serving it earlier than the other witness statements (if any).

8. The following Case Management Orders were made with the consent of both parties:

Hearing

- (1) The case will be listed to be heard in public by a Judge sitting alone by CVP on **3 March 2023**.

Claimant's Witness Statement

- (2) The claimant is to prepare a full and detailed witness statement relating to the unlawful deduction from wages which is to consist of no more than a maximum of six pages. He is to serve that upon the respondent by **12 December 2022** and his statement will serve to provide the further and better particulars requested by the respondent. He need only deal with the unlawful deduction from wages claim, but should include his calculations of what he alleges is owed to him.

Disclosure

- (3) By 4.00pm on **16 January 2023** each party must have provided to the other a list of all the documents it already has or can reasonably obtain relevant to the issues in the case together with copies of the documents listed. Electronic copies may be provided at this stage. This includes documents that are relevant to compensation only. A document must be included whether it supports or hinders a party's case. A party must make a reasonable search for documents not immediately to hand. Documents possibly relevant to the case must not be destroyed. Further information can be found in Guidance Note 2 attached to the Presidential Guidance on General Case Management.
- (4) Any audio recordings (or video recordings with audio) held by either side which are relevant must be disclosed as a "document" at the same time. The person disclosing the recording should prepare a typed transcript of the recording and provide that to the other side with a copy of the recording itself. The parties should agree the transcript and that can be included in the bundle if it is relevant. Where any part of the recording is disputed the alternative versions shall be included and highlighted for ease of reference in the transcript. In general terms the Tribunal will only view and/or listen to the recording itself (or the relevant part of it) if the parties have been unable to agree in the transcript what words were actually used, or if the tone of voice is thought to be significant. It is up to the party asking the Tribunal to view and/or listen to the recording to

bring the equipment (e.g. a laptop) so it can be played during the hearing if the Tribunal agrees.

#### Final Hearing Bundle

- (5) The respondent is responsible for putting together a file containing those documents disclosed by the parties and required at the final hearing (the “hearing bundle”). The parties must cooperate with each other in assembling and agreeing the hearing bundle contents and index to the bundle.
- (6) That hearing bundle must be agreed, and one hard (paper) copy, and a pdf copy supplied by the respondent to the claimant by 4.00pm on **6 February 2023**.
- (7) The respondent must also ensure that the claimant and the Tribunal have an electronic version of the hearing bundle in a form which complies with paragraph 24 of the Presidential Guidance on Remote and In-Person Hearings issued on 14 September 2020.
- (8) The hearing bundle should only include documents relevant to any disputed issue in the case and should only include the following documents:
  - the Claim Form, the Response Form, any amendments to the grounds of complaint or response, any additional / further information and/or further particulars of the claim or of the response, this written record of a preliminary hearing and any other case management orders that are relevant. These must be put at the start of the bundle, in chronological order, with all the other documents after them;
  - documents that will be referred to at the final hearing and/or that the Tribunal will be asked to take into account.

In preparing the hearing bundle the following rules must be observed:

- unless there is good reason to do so (e.g. there are different versions of one document in existence and the difference is relevant to the case or authenticity is disputed) only one copy of each document (including documents in email streams) is to be included in the bundle
- the documents in the bundle must follow a logical sequence which should normally be simple date order
- handwritten documents which are not easily legible (such as notes of meetings) should be transcribed into typed format by the party producing the document, and an agreed typed version included in the bundle. Only if the parties are unable to agree the accuracy of the typed version should the handwritten version be included too.

#### Other Witness Statements

- (9) With the exception of the claimant's statement (which is to be served on or before **12 December 2022**), by 4.00pm on **20 February 2023** each party must have provided to the other a written statement from every person that it is proposed will give evidence at the final hearing. This includes anyone who is also a claimant or a respondent. The witness statements must be typed in numbered paragraphs and signed by the witness. They should set out in logical order the facts about which the witness wishes to tell the Tribunal. Legal arguments or submissions to the Tribunal should not be included. There should be no reference to "without prejudice" discussions or exchanges without the agreement of the other side. Where reference is made to a document the page number from the hearing bundle must be included. There is no need to reproduce lengthy passages from documents in the bundle which the Tribunal will read. The claimant's witness statement must address remedy by including a statement of the amount of compensation or damages claimed, together with an explanation of how it has been calculated.
- (10) Unless the Tribunal hearing the case directs otherwise, the witness statements will be read by the Tribunal and stand as the evidence of each witness before that witness is questioned by the other parties. It is important that the statements contain all the facts which the witness can provide which are relevant to the case.
- (11) For the avoidance of doubt this order does not require simultaneous exchange of witness statements, but the parties are free to proceed on that basis if they so wish. However, any witness statements disclosed after this date may not be relied upon at the final hearing without permission from the Tribunal.
- (12) Further information about witness statements can be found in Guidance Note 3 attached to the Presidential Guidance on General Case Management.

### **Other Matters**

9. The above orders were made and explained to the parties at the preliminary hearing. All orders must be complied with even if this written record of the hearing is received after the date for compliance has passed.

10. Anyone affected by any of these orders may apply for it to be varied, suspended or set aside. Any further applications should be made on receipt of these orders or as soon as possible.

11. You can appeal to the Employment Appeal Tribunal if you think a legal mistake was made in an Employment Tribunal case management order. There is more information here: <https://www.gov.uk/appeal-employment-appeal-tribunal>

12. All judgments and reasons for the judgments (but not case management orders) are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case. Parties are encouraged to make a note of any oral judgment given by the Tribunal as

it may not be necessary then for written reasons to be provided. If written reasons are requested, they too will be published online and will be accessible to the public.

Employment Judge Warren  
Date: 16 November 2022

JUDGMENT AND ORDERS SENT TO THE PARTIES ON  
21 November 2022

FOR THE TRIBUNAL OFFICE

**Note**

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

**Public access to employment tribunal decisions**

Judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

## **Sources of Guidance**

*Note: some of these may not be relevant to this case.*

- (1) The Employment Tribunal Rules of Procedure can be found at <https://www.gov.uk/courts-tribunals/employment-tribunal>.
- (2) Presidential Practice Directions and Guidance can be found at this link:

[www.judiciary.gov.uk/publications/employment-rules-and-legislation-practice-directions/](http://www.judiciary.gov.uk/publications/employment-rules-and-legislation-practice-directions/)

- (3) That link will provide access to the Presidential Guidance on 'General Case Management' (which incorporates Guidance Notes on a range of matters), and to the Presidential Practice Direction and Presidential Guidance on remote and in person hearings issued on 14 September 2020. At the same link can be found Presidential Guidance on alternative dispute resolution (including judicial assessment and judicial mediation), on the bands of compensation for injury to feelings (the "Vento" bands), on the principles for compensating pension loss, and on seeking a postponement.
- (4) During 2020 the President issued a set of FAQs addressing the impact of the COVID-19 pandemic on the work of the Employment Tribunals. This document was updated on 1 June 2020 and may help explain how this case might be affected. A further "Road Map" for 2021-2022 was issued on 31 March 2021. These can all be accessed using the link in paragraph (2) above.
- (5) The parties may also find the following guidance helpful:
  - On the question of whether the claimant was a disabled person under the Equality Act 2010, the Tribunal will have regard to the Secretary of State's Guidance on Matters to Be Taken into Account in Determining Questions Relating to the Definition of Disability (2011) available at:  
<http://odi.dwp.gov.uk/docs/wor/new/ea-guide.pdf>
  - In Equality Act cases Tribunals often have regard to the Equality and Human Rights Commission's Code of Practice on Employment available at:  
<https://www.equalityhumanrights.com/en/publication-download/employment-statutory-code-practice>
  - The Equal Treatment Bench Book is a guide to Courts and Tribunals on steps that can be taken to ensure a fair hearing. It is available at:  
<https://www.judiciary.uk/wp-content/uploads/2018/02/equal-treatment-bench-book-february2018-v5-02mar18.pdf>
- (6) The Employment Lawyers Association's ELIPS scheme, provides limited free advice to unrepresented litigants. Currently, within this region, the scheme only operates in Manchester. Further information can be found here:  
<https://www.elaweb.org.uk/content/employment-tribunal-litigant-person-support-scheme-elips>
- (7) Ten short video guides produced by BPP Law School providing an overview of Employment Tribunal procedures, including what happens at a hearing, can be found here:  
[vimeo.com/user/71831050/folder/4038961](https://vimeo.com/user/71831050/folder/4038961)

