



EMPLOYMENT TRIBUNALS

Claimant: Daniel Lester
Respondent: E&S Environmental Services Limited

Heard: via CVP

On: 28 May 2024

Before: Employment Judge Ayre, sitting alone

Representation

Claimant: In person
Respondent: Ryan Watson, consultant

JUDGMENT

1. The name of the respondent is amended by consent to E&S Environmental Services Limited
2. The claim for unlawful deduction from wages is not well founded. It fails and is dismissed.

REASONS

Background

1. On 3 January 2024 the claimant presented a claim of unlawful deduction from wages to the Employment Tribunal following a period of early conciliation that started on 24 November 2023 and ended on 3 January 2024.
2. The claimant has been employed by the respondent since 19 February 2019 and his employment is ongoing. He complains that the respondent has made unlawful deductions from his wages without his consent over a period of time beginning in

June 2021 and ending in March 2023.

3. The respondent defends the claim. It admits that it made deductions from the claimant's wages and submits that all of the deductions were made pursuant to Council Tax Attachments of Earnings Orders (**CTAEOs**) issued by Salford City Council.
4. On 24 April 2024 Employment Judge Bright issued a Notice and Order that the claim would stand dismissed on 8 May 2024 without further order unless before that date the claimant explained in writing why the claim should not be dismissed. The reasons given for making this Order were that the claim had no reasonable prospects of success as the claimant does not appear to dispute that the deductions from his wages were in respect of CTAEOs, but rather he disputes the legality of the CTAEOs, which is not something that the Employment Tribunal can adjudicate on.
5. The claimant responded to the Notice setting out reasons why he says the claim should not be dismissed. It appears from his response that he is saying that Salford City Council did not have the authority to issue Attachment of Earnings Orders and that accordingly the Orders issued were unlawful and should not have been actioned by the respondent.
6. The claim was not struck out and proceeded to final hearing today.

The hearing

7. There was a bundle of documents running to 200 pages that had been prepared by the respondent. I heard evidence under oath from the claimant and, on behalf of the respondent, from Louise Clarke, Payroll Manager, in respect of whom a witness statement had been prepared.
8. The claimant was not able to join the hearing by CVP, despite trying to do so. We delayed the start of the hearing by approximately 50 minutes until the claimant was able to join by telephone. Both parties stated that they wished to go ahead with the hearing, and we did so.
9. At the start of the hearing we discussed the name of the respondent. I explained to the claimant that 'Adler and Allan' does not appear to be a legal entity, and that it is important that we identify the correct respondent – namely the company that employed him. The claimant's contract of employment was contained in the bundle of documents and identified the employer as E&S Environmental Services Limited.
10. By consent, the name of the respondent is changed to E&S Environmental Services Limited.

The issues

11. The issue that fell to be determined at the hearing was the following:
 1. Did the respondent make unauthorised deductions from the claimant's wages

and, if so, how much was deducted?

12. The claimant says that unauthorised deductions were made on the following dates:

1. June 2021
2. July 2021
3. January 2022
4. February 2022
5. November 2023
6. December 2023
7. January 2024
8. February 2024 and
9. March 2024.

Findings of fact

13. The claimant is employed by the respondent as an HGV Driver and Drainage Technician. Since mid-2021 Salford City Council has issued various Council Tax Attachment of Earnings Orders in relation to the claimant, as follows:

1. On 28 May 2021 two Orders were issued, the first for £174.18 and the second for £606.06. The respondent made deductions from the claimant's wages in respect of these Orders in June and July 2021;
2. On 3 September 2021 two Orders were issued, the first for £578.82 and the second for £1,005.78. The respondent made deductions from the claimant's wages in January and February 2022 in respect of these Orders;
3. On 4 March 2022 an Order was issued for £2,804.36. This order was subsequently cancelled by Salford City Council and no deductions were made in respect of it;
4. On 14 October 2022 two Orders were issued, the first for £2,145.29 and the second for £36.19. Salford City Council later asked the respondent not to process any deductions, so no deductions were made in relation to these Orders;
5. On 27 January 2023 two further Orders were sent to the respondent. The first was in the sum of £2,145.29 and the second for £118.52. Salford City Council later asked the respondent not to process any deductions, so no deductions were made in relation to these Orders;
6. On 2 June 2023 an Order for £859.45 was sent to the respondent. Salford City Council later asked the respondent not to process any deductions, so no deductions were made in relation to this Order.

7. On 13 October 2023 two further Orders were issued, the first for £36.19 and the second for £1,838.81. Deductions were made from the claimant's wages in November 2023, December 2023, January 2024, February 2024 and March 2024 in respect of these Orders.

14. The Attachment of Earnings Orders were sent directly to the respondent and contained the following wording:

"Please read the enclosed notes carefully as this order imposes certain legal duties on the person(s) on whom it is served.

On [date]the Magistrates Court granted a Liability Order under Regulation 34 of the Council Tax (Administration and Enforcement) Regulations 1992 against the person named above in respect of an amount, of which [amount] is outstanding at the date of this order.

Salford City Council orders you to make deductions from the net earnings of the person named above at the times and at the rates specified in the regulations detailed on the reverse side of this letter and in the attached booklet....

Please note, if you fail to comply with the above you may be liable to pay a fine...."

15. Salford City Council also issued 'Guidance for Employers' in relation to Council Tax Attachment of Earnings Orders, which contains the following relevant wording:

"The Office of the Deputy Prime Minister has prepared this note to help employers with the administration of Council Tax Attachment of Earnings Orders (CTAEOs). CTAEOs may be issued by local authorities following the granting of a liability order in respect of a Council Tax debt in accordance with the Council Tax (Administration and Enforcement Regulations 1992 (S>I> No. 613) as amended....

On receiving a CTAEO the employer must:

- *seek to make deductions from the employee's net earnings under the CTAEO as soon as possible....*
- *pay the deductions to the local authority no later than the 18th day of the month following the month in which the deduction was made....*

A CTAEO is a legal document and places certain duties on employers and debtors. A summary of these legal duties is below.

An employer could be liable for a fine if he:

- (1) *fails to comply with the order unless he can prove all reasonable steps were taken to comply...."*

16. All of the deductions made from the claimant's wages, about which the claimant complains, were made to enable the respondent to comply with the Council Tax

Attachment of Earnings Orders issued by Salford City Council.

The Law

17. Section 13 of the Employment Rights Act 1996 states that:

“(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.”

18. Section 14 of the Employment Rights Act 1996 deals with excepted deductions, which are not covered by section 13. It includes the following:

“(3) Section 13 does not apply to a deduction from a worker’s wages made by his employer in pursuance of a requirement imposed on the employer by a statutory provision to deduct and pay over to a public authority amounts determined by that authority as being due to it from the worker if the deduction is made in accordance with the relevant determination of that authority....

(6) Section 13 does not apply to a deduction from a worker’s wages made by his employer with his prior agreement or consent signified in writing where the purpose of the deduction is the satisfaction (whether wholly or in part) of an order of a court or tribunal requiring the payment of an amount by the worker to the employer.”

19. Section 23 of the Employment Rights Act 1996 gives workers the right to bring complaints of unlawful deduction from wages to the Employment Tribunal. The time limit for bringing such claims is contained within Sections 23(2), (3) and (4) which provide as follows:

“(2) Subject to subsection (4), an employment tribunal shall not consider a complaint under this section unless it is presented before the end of the period of three months beginning with –

(a) In the case of a complaint relating to a deduction by the employer, the date of payment of the wages from which the deduction was made....

(3) Where a complaint is brought under this section in respect of –

(a) a series of deductions or payments...

the references in subsection (2) to the deduction or payment are to the last deduction or payment in the series or to the last of the payments so received.

(4) Where the employment tribunal is satisfied that it was not reasonably practicable for a complaint under this section to be presented before the end of the relevant period of three months, the tribunal may consider the complaint if it is presented within such further period as the tribunal considers reasonable.”

20. In the case of ***Reynolds v Cornwall County Council [1996] UKEAR 1189_95_0603*** a deduction was made from an employee’s wages pursuant to a Deduction from Earnings Order issued by the Child Support Agency. The claimant alleged that the deduction from his wages was unlawful because the Deduction from Earnings Order was defective and subsequently withdrawn. In giving judgment, the then President of the EAT, Mr Justice Mummery, commented that it could not have been intended that, in relation to a similar defence under the Wages Act legislation which was the precursor to the relevant provisions in the Employment Rights Act, that an employer “*should have to consider whether the employee was, in fact, correctly held liable for the deduction. The employer is entitled to act on the order served on him. If there is a dispute about liability under that order, that is not a matter between the employer and the employee; it is a matter for the employee to take up with the relevant authority which made a decision on the liability.*”

Conclusions

21. I am satisfied on the evidence before me that all of the deductions made by the respondent from the claimant’s wages were in order to satisfy the Council Tax Attachment of Earnings Orders issued by Salford City Council.
22. The deductions therefore fall within Section 14(3) of the Employment Rights Act 1996 as they were made in pursuance of a requirement imposed on the employer to make the deductions and pay the money over to the Council. They also fall within section 13(1) of the Employment Rights Act, as they were required or authorised to be made by virtue of a statutory provision.
23. Having received the Council Tax Attachment of Earnings Orders the respondent was under a duty to comply with them. It matters not that the claimant may have challenged the validity of the Orders, that is not a matter for the respondent. I do not accept the claimant’s submission that the deductions were unlawful because no one at the respondent checked that there was a valid council tax liability order in place. Nor do I accept the claimant’s submission that there is no statutory provision for a local council to order deductions from wages.
24. As the EAT held in ***Reynolds v Cornwall County Council***, an employer is entitled to act on an Attachment of Earnings Order and does not have to consider whether the Order is correct. If there is a dispute about liability under the Order, that is a matter for the claimant to take up with Salford City Council, and not a matter over which this Tribunal has jurisdiction.

25. For these reasons the claim fails and is dismissed.

Employment Judge Ayre

Date: 28 May 2024

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Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>