

Deduction for repayment of training fees should be disregarded in calculating minimum wage where employee has voluntarily resigned

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The EAT has held that in circumstances where the employee had voluntarily resigned, an employer was entitled to deduct training fees from the employee's final salary, even though this resulted in the employee receiving net pay less than the national minimum wage.

Miss Brade worked for Lorne Stewart plc and was sponsored by them to attend a training course during her employment. As a condition of her sponsorship, Miss Brade was required to sign an agreement stating that she must repay part of the cost of the course if she were to leave Lorne Stewart within two years of completing it. The agreement also entitled Lorne Stewart to deduct those costs from Miss Brade's final pay in the event of her employment being terminated. Miss Brade resigned within the two-year period and Lorne Stewart accordingly deducted part of the fees for the course from her final wage. The result of the deduction was that it appeared that Miss Brade had been paid below the national minimum wage. HM Revenue and Customs issued a notice of underpayment to Lorne Stewart and Lorne Stewart appealed to the employment tribunal.

The EAT found that deductions could be made on grounds of conduct for which the worker is responsible, which includes but is not limited to misconduct, without infringing the National Minimum Wage legislation. As Miss Brade resigned voluntarily, Lorne Stewart was entitled to make the deduction, which should be discounted for the purposes of national minimum wage calculations.

The important point raised in this case was that the deduction could be made because it related to Miss Brade's voluntary resignation (i.e. conduct for which she was responsible) and not because of the agreement entered into with Lorne Stewart. The EAT made clear that had Miss Brade been made redundant, she would have been entitled to receive the national minimum wage.

Commissioners for HM Revenue and Customs v Lorne Stewart plc
UKEAT/0250/14

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