

# Employer should have set out deduction to employee's wages in payslip

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# Employer should have set out deduction to employee's wages in payslip

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An employee whose employer had clawed back overpaid wages claimed that his employers had not complied with the

Employment Rights Act, which requires employers to give written and itemised pay statements. The Employment Appeal Tribunal has held that deductions of an employee's wages should have been properly itemised and explained on the employee's payslip.

The claimant, Mr Ridge, worked as a Software Engineer at HM Land Registry. The Land Registry paid its employees on the last day of each month and gave its employees a payslip which set out their gross pay and any deductions. Mr Ridge began to have health problems and had long periods of sickness absence. He had exhausted his sick pay entitlements and was absent after this period, which meant that there were months when he was not entitled to his full monthly salary. Where his absences were reported and processed before the end of the month, his gross pay would be reflected correctly on his payslips, but when they were not, he would be overpaid and the amount would be recovered from the next month's gross pay. These reductions would appear as a negative amount on his payslip but there would be no other details explaining why the adjustments were made. Mr Ridge asked the Land Registry to include an explanation on his payslips but it did not do so.

Mr Ridge brought a claim against the Land Registry arguing that it had failed to meet its obligations under the Employment Rights Act which requires employers to give written and itemised pay statements to their employees (including itemised deductions and the purposes for which they are made). The Land Registry argued that the variations made to Mr Ridge's pay were adjustments rather than deductions and therefore the provisions of the Employment Rights Act would not apply.

The EAT held that a reduction of the following month's pay was a deduction for the purpose of the Employment Rights Act and that Mr Ridge was entitled to have a declaration to identify the amount and purpose of the deductions made from his salary. The EAT distinguished recoveries of overpayments (which it

considered were deductions under the Employment Rights Act) from adjustments to pay due to Mr Ridge's exhausted sick pay (which were not deductions under the Employment Rights Act). However, although Mr Ridge won his case in principle and was entitled to a declaration of the deductions made, he was not entitled to damages. Mr Ridge had claimed that he was entitled to a payment up to the aggregate of the unnotified deductions which he argued could be made even where the deduction made was correct. The EAT found that in this case this award would be disproportionate, given that: (i) the deductions were apparent; (ii) Mr Ridge was alerted to them; (iii) he understood the purpose for which they had been made, and (iv) a declaration would be a sufficient remedy.

This case emphasises the importance of itemising payslips. Indeed, it is regrettable that this case was brought as the EAT itself noted the Land Registry could have easily explained the deductions by including a few abbreviated words on Mr Ridge's payslip. Although Mr Ridge was unsuccessful in his claim for damages, employers reducing an employee's wages to claw-back a previous overpayment could be at risk of punitive damages up to this amount if they have failed properly to identify the deduction properly, even if the employee understands the reason for the deduction and the employer is entitled to make it.

*Ridge v HM Land Registry UKEAT/0098/10*

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