



EMPLOYMENT TRIBUNALS

Claimant

Mr L Massam

Respondent

v AJP Building and Joinery Limited

RECORD OF A CLOSED TELEPHONE PRELIMINARY HEARING

Heard at: Lincoln

On: Monday 6 November 2017

Before: Employment Judge Blackwell (sitting alone)

Appearances

For the Claimant: In Person

For the Respondent: Ms L Halsall, Solicitor

JUDGMENT

This case is adjourned until 24 January 2018. It is set down for a full day before any Employment Judge sitting alone. The case will be heard at the Lincoln Magistrates Court, 358 High Street, Lincoln LN5 7QA. No further notice of hearing will be given.

ORDERS

Made pursuant to the Employment Tribunal Rules 2013

Introduction

1. In identifying the issues it became apparent that the case could not be determined in the 2 hours allotted to it. Further some time was spent in an attempt to come to terms which proved fruitless.

2. The Claimant's claims are as follows:-

(a) That there was a verbal agreement with the Respondent's to pay 50% of the running costs of Mr Massam's vehicle provided that he used it for work purposes. The monetary value of that claim appears to be E 789.17 being a 50% contribution to running costs. The Respondent's accept that there was an agreement but not in the terms put forward by the Claimant. They both allege that they have made all necessary payments under that verbal agreement, further they dispute the amounts of the running costs claimed.

(b) The second claim in the ETI is set out as a failure to pay notice pay but it is also a claim for wrongful dismissal in that Mr Massam alleges that he resigned by e-mail of 3 April 2017 as a consequence of the Respondent's failure to comply with the agreement referred to above. The Respondent's deny this claim and state that the Claimant failed to give the requisite 4 weeks' notice as required by his written contract. Mr Massam's ETI claims the sum of one week's statutory sick pay, however if the claim for wrongful dismissal is made out it seems to me that he would be entitled to the minimum required by Section 86 of the Employment Rights Act or the contractual period whichever is the greater.

(c) The third claim is an unlawful deduction from wages of the sums of £1 35.00 and £1 60.00 in respect of training costs incurred by the Respondent's in sending Mr Massam on a training course. The legal issue is whether in accordance with Section 13 of the Employment Rights Act 1996 the Respondent's are entitled to make such a deduction. They maintain that the written contract of employment handed to Mr Massam permits such a deduction. Mr Massam also disputes the amount of the deduction as well as the Respondent's entitlement to make it.

3. Respondent's counter claim:-

(a) The first element of the counter claim is a request for the return of various tools and consumables which are the property of the Respondent. Mr Massam accepts that he has retained some of the items listed in the appendix to the amended response and that he will return these items on a settlement or judgment.

(b) A number of matters are set out in paragraph 10 of the amended response form and they relate to work either carried out negligently by Mr Massam or additional costs incurred as a consequence of Mr Massam failing to work his contractual period of notice. The principle and amounts of the claim are both disputed by Mr Massam.

4. The parties have exchanged witness statements and there is also an agreed bundle of documents. In the light of comments made today, if either party wishes to add documents to the bundle then they should do so not later than by 22 December 2017.

NOTES

- (i) The above Order has been fully explained to the parties and all compliance dates stand even if this written record of the Order is not received until after compliance dates have passed.
- (ii) Failure to comply with an order for disclosure may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under s.7(4) of the Employment Tribunals Act 1996.
- (iii) The Tribunal may also make a further order (an "unless order") providing that unless it is complied with, the claim or, as the case may be, the response shall be struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice or hold a preliminary hearing or a hearing.

- (iv) An order may be varied or revoked upon application by a person affected by the order or by a judge on his/her own initiative. Any further applications should be made on receipt of this Order or as soon as possible. The attention of the parties is drawn to the Presidential Guidance on 'General Case Management':

<https://www.eudicra.org/ov.uWw-content/uploads/2014/08/residential-guidance-general-case-management.pdf>

- (v) The parties are reminded of rule 92: "Where a party sends a communication to the Tribunal (except an application under rule 32) it shall send a copy to all other parties, and state that it has done so (by use of "cc" or otherwise). The Tribunal may order a departure from this rule where it considers it in the interests of justice to do so." If, when writing to the tribunal, the parties do not comply with this rule, the tribunal may decide not to consider what they have written.

Employment Judge Blackwell

Date: 1 DECEMBER 2017

Sent to the parties on:

08 December 2017

For the Tribunal:

