



EMPLOYMENT TRIBUNALS

Claimant Mr J Sharpe

Respondent: Alliance Workforce Limited

HELD AT: Leeds

ON: 9 November 2018

BEFORE: Employment Judge T R Smith

REPRESENTATION:

Claimant: No appearance

Respondent: Mr Simon Goddard, managing director
Mrs Joanne Goddard, company secretary

JUDGMENT

The Claimant's claim against the Respondent is dismissed.

REASONS

1. By a notice of hearing correctly sent to both parties on 14 September 2018 the parties were notified this matter would be heard on 9 November 2018.
2. When the case was called on at 2pm there was no attendance by the Claimant.

3. The Tribunal caused enquiries to be made to see whether the Claimant was running late or had left any messages with the Tribunal. No such messages had been received.
4. Enquiries were made with the Respondent and they were unable to offer any explanation as to why the Claimant was not in attendance.
5. An attempt was made by the Tribunal to contact the Claimant using his mobile telephone number. The mobile telephone number simply went to voicemail. The Tribunal determined at 2.25pm that it was therefore appropriate to proceed in the Claimant's absence.
6. In proceeding in the Claimant's absence the Tribunal, in accordance with Rule 47 of the Employment Tribunal's (Constitution and Rules of Procedure) Regulations 2013, considered all information available to it from the Tribunal file.

Findings of fact

7. The Respondent is an employment agency.
8. The Claimant has worked via the agency on at least 9 occasions since 2016.
9. The contractual arrangement between the Claimant and the Respondent was as follows.
10. The Claimant registered with the agency.
11. The agency sought to obtain work for the Claimant with an end user. The Claimant operated on a self-employed basis and therefore, along with other painter and decorators utilised a separate payroll company known as Sandbeck CIS Limited.
12. The Claimant instructed the Respondent to ensure payments due to him were paid to Sandbeck CIS Limited who in turn then reimbursed the Claimant.
13. The Respondent was approached by S&H Coatings Limited as they required a painter and decorator.
14. The Respondent supplied to S&H Coatings Limited the Claimant.
15. The procedure as regards time sheets, and the procedure that had been used in the past in dealings between the Claimant and the Respondent was that the Claimant notified the Respondent of the hours worked for the end user. The Respondents then placed that on a document. This was then sent to the end user who checked the same. The end user would then approve the same and make payment to the Respondent. If there was a dispute the end user would pay the sum that was not in dispute and the Respondent would attempt to resolve any discrepancy.
16. The Claimant contended he was not paid at follows:-
 - a. Sunday 1 July 2018. He claimed he worked 5 hours but was only paid for 3 hours.
 - b. Monday 2 July. The Claimant claimed he worked 10 hours but was only paid for 8 hours.
 - c. Tuesday 3 July. The Claimant claimed he worked for 8.5 hours and was paid nothing.
17. The Tribunal had before it the time sheet for the Claimant for 1 July. The time sheet clearly shows that the Claimant worked from 9am to 1pm. He therefore

worked 4 hours and not the 5 hours claimed. This was approved by the end user. The Tribunal accepts the Claimant was paid this sum.

18. The Respondent's case, and the Tribunal had no reason to disbelieve the evidence given, was that when it approached the end user as regards the Claimant working on Monday 2 July and Tuesday 3 July the end user refused counter signed time sheets. The end user contended that the Claimant had taken excessive breaks, had falsified time sheets and undertaken substandard workmanship.
19. In the circumstances as the end user would not countersign the time sheet no payment was made to the Respondent and in turn the Respondent did not pay the Claimant the sums claimed.
20. Given it was a term of the contractual arrangement that the Respondent was only liable to pay the Claimant on time sheets authorised by the end user there is no breach of contract.
21. In the circumstances therefore the Claimant's complaint of non-payment of wages must be dismissed.

Employment Judge T R Smith

Date 26/11/2018

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