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EMPLOYMENT TRIBUNALS

BETWEEN

Claimants

Mr F Hude

Respondents

Mr D Jennings trading as Le
Petit Poisson

and

Held at Ashford on 22 May 2019

Representation

Claimant:

Respondent:

Did not attend
Mr Morton, Scottish
Qualified Solicitor

Employment Judge Kurrein

JUDGMENT

The Claimant's claim is not well founded and must be dismissed.

REASONS

- 1 These Reasons should be read in conjunction with all earlier Orders and Reasons.
- 2 On 13 May 2019 the Claimant informed the Tribunal he would not be attending the hearing because he would lose pay. I concluded it was appropriate to proceed with the hearing pursuant to Rule 47.
- 3 I read the Claimant's claim form and heard the evidence of Mr Jennings. I read the documents to which it referred and asked him some questions about them.
- 4 The Claimant's claims are for unauthorised deductions and holiday pay. In each case the onus is on the Claimant to establish, on the balance of probabilities, that he has been subjected to unauthorised deductions, and has not been paid holiday pay to which he was entitled, by this Respondent.
- 5 The Claimant was informed that he had no duty to attend the hearing, but warned, by email of 20 May 2019, that his case would carry less weight if he did not do so, and particularly so if the Respondent did attend and give evidence.
- 6 The Claimant has not attended this hearing. His case, set out in his claim form and an email regarding holiday pay, has not been tested in cross-examination.
- 7 The Respondent has attended and answered the questions I put to him, albeit, it seemed to me, with some reluctance on occasions and inaccurately (regarding Mrs White not having been the only Director of The Real Ice Cream

- Company Kent Limited at all times) on another. Against that I accepted that the payroll for the latter company (dissolved at Mrs White's request on 8 January 2019) showed it as being the Claimant's employer, and a payslip for May 2017 showing his gross pay, tax and NIC deductions and an NI number appeared authentic, even if he did not receive it at the time.
- 8 In all the above circumstances I am quite unable to find that the Claimant has established that the Respondent was his employer. His claim is not well founded and must be dismissed.
- 9 In the course of the hearing I was asked to recuse myself on the ground that I had shown bias. This was not particularised to me. I reject the allegation: I am well known to be robust in my case management and nothing I may have done went beyond this. The test in **Porter v Magill [2001] UKHL 67**, "... whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased." Is not made out.

Employment Judge Kurrein

22 May 2019