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EMPLOYMENT TRIBUNALS

BETWEEN

Claimant
Mr J Olney

and

Respondent
Mr A Bartlett t/a Bartlett
Plumbing & Heating

Held at Ashford on 12 January 2018

Representation

Claimant:
Respondent:

In Person
Mr A Bartlett, Son

Employment Judge Kurrein

JUDGMENT

The Claimant's claims are not well founded and are dismissed.

REASONS

- 1 By a claim presented on 30 September 2017 the Claimant, who lives in Rainham, Essex, sought notice and redundancy pay for a period of some 9 years employment as a Gas Safe plumber with the Respondent. The had been working together for some 21 years by this time.
- 2 By his response, presented on 22 November 2017, the Respondent stated that the Claimant had resigned so as not to have to travel to Kent to work with the intention of working full-time as a black cab driver.
- 3 I heard the evidence of each of them, looked at a few documents and heard what they had to say.
- 4 In June 2017 the Respondent, to the Claimant's knowledge, had only one work site active in Essex, at Braintree. Money issues arose with the contractor and the Respondent texted the Claimant on 16 June 2017 to tell him not to do any more work at Braintree.
- 5 The Claimant returned from holiday on 21 June 2016 and phoned the Respondent on sight of that text. It was common ground that the Respondent, because of his illness, did not intend to seek out any other work in Essex. It was also common ground that the Claimant had passed "the knowledge" in 2014 and worked part-time as a cabby.
- 6 I thought it more likely than not that, as the Respondent contends, that:-

- 6.1 the Claimant had no wish to travel to work in Kent on a daily basis and had said so; and
- 6.2 mention was made, by one or the other of them, of the Claimant cabbing full time, which is what has, in fact, happened.
- 7 I am quite satisfied that the Respondent did not then or at any other time say anything that could reasonably have been interpreted as a dismissal.
- 8 I am equally satisfied that the Claimant did not then or at any other time say anything that could reasonably be construed as a resignation.
- 9 The end result is that the Claimant remains employed. However, he has not at any time since attended the Respondent's premises or asked where he should otherwise attend for work. Equally, he has not been paid.
- 10 In the above circumstances, in the absence of a termination, the Claimant's claims cannot succeed.

Employment Judge Kurrein

12 January 2018