



EMPLOYMENT TRIBUNALS

Claimant: Mr K Kalinowski
Respondents: (1) Sam Hunter and (2) Christine Barber trading as Hunter Concrete Products

JUDGMENT

Rule 21 Employment Tribunal Rules of Procedure

1. Sam Hunter and Christine Barber trading as Hunter Concrete Products are the correct Respondents to these claims.
2. The Respondents made unauthorised deductions from the Claimant's wages by failing to pay him £70 overtime from the week commencing 3 June 2019 and four days' wages from the week commencing 10 June 2019. The Respondents shall pay the Claimant **£470** net.
3. At the time these proceedings were begun, the Respondents were in breach of their duty to provide the Claimant with a written contract of employment. There are no exceptional circumstances that make it unjust to award him two weeks' pay. It is not just and equitable to award him four weeks' pay. The Respondents shall therefore pay him **£1000** being two weeks' pay.

REASONS

This claim for wages was presented on 7 August 2018. The Claimant named "Hunter Concrete Products 24/7 Concrete & Aggregates Sam Hunter and Christine Barber" as his employer and gave an address on Weaving Lane, Dewsbury. That is where the claim form was served. The Claimant told me that was the address at which he worked and where the operation is run from. It seems to me that the correct way to refer to the Respondents is as Sam Hunter and Christine Barber trading as Hunter Concrete Products. The Respondents have not presented a response to the claim.

The website of Hunter Concrete Products refers to a limited company called Hunter Concrete Products Ltd. However, on the basis of what the Claimant told me, he was not employed by that company but by Mr Hunter and Ms Barber personally. He was told about the job by a friend. Mr Hunter interviewed him and offered him a job. He never mentioned a limited company. The Claimant was not given a written contract of employment or anything in writing. Mr Hunter and Ms Barber ran the business. The Claimant did not get payslips. Towards the end of his employment he asked for payslips. Eventually he was given about five payslips. They were incorrect because they did not match the sums he was actually paid. They did not name any employer. His wages were paid directly into his bank by "Hunter Concrete Products", until the last payment (after he had asked for payslips) which was from a company called Aladin Pitstop Ltd. I therefore find that the Claimant was employed by Mr Hunter and Ms Barber personally, trading as Hunter Concrete Products.

The Claimant told me that his employment ended when he refused to drive an unsafe vehicle on 13 June 2019. Ms Barber told him to go home. He was not paid his overtime for the previous week (£70) or his wages for the four days he had worked from 10 to 13 June 2019 (£400). Ms Barber told him his wages were withheld because he had damaged a vehicle, but he never signed anything to say that could be done. Anyway, the nature of the business meant that vehicles were often bumped. He and other employees were told not to worry when this happened.

The Claimant had no written contract of employment. No exceptional circumstances were identified. The Claimant told me he had never asked for a written contract. In those circumstances, I find that it would not be just to order the higher sum of four weeks' pay, so I order the payment of two weeks' pay.

The claim before me was only a claim for wages. However, the Claimant indicated that he intends to bring a claim of unfair dismissal because he lost income until he found new work. Nothing in this judgment should be taken as dealing with any potential claim for unfair dismissal.

Employment Judge Davies

10 October 2019

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