



EMPLOYMENT TRIBUNALS

Claimant

Respondent

v

Mr D Wood

Yorkshire Rescue Services HUD Ltd

Heard at: Leeds

On: 14 February 2020

Before: Employment Judge JM Wade

Appearance:

For the Claimant: In person

For the Respondent: No attendance

JUDGMENT

1 The claimant's complaints of unlawful deductions from wages succeed and the respondent shall pay to him the net total sum of £1504.40.

2 The claimant's complaint of unpaid holiday pay on the termination of his employment and the respondent shall pay to him the gross sum of £434.98.

3 The claimant's complaint of entitlement to notice pay is dismissed.

REASONS

The non attendance of the respondent

1. Today by 2.10 pm the respondent company, "Huddersfield", had not attended the hearing. I directed our clerk to make a telephone enquiry. The respondent had previously sought a postponement on the basis that a solicitor could not attend on its behalf. That was made at short notice and was refused. Today Mr Alderson, the respondent's managing director and majority shareholder, said by telephone he was not going to attend and, "it is what it is", to our clerk. Mr Wood attended.

2. There is, on the file, a list of judgments in other cases provided by the claimant against a second company owned by Mr Alderson, Yorkshire Rescue Services BFD limited, ("Bradford") currently in creditors' voluntary liquidation. I have not looked at those cases. I have looked at the publicly available companies house information about Bradford (some of which has been provided by the claimant today). That company was said by Mr Alderson, on 5 September 2019, to have no liabilities to preferential creditors, but to have as its only unsecured creditor, HM Revenue and

Customs in the amount of £293, 595.

3. Other companies, owned by Mr Alderson, and with a similar name, have been previously dissolved, including the name of a company said to be the other party to the claimant's employment contract ("Yorkshire Rescue Service Ltd" or "Yorkshire Rescue Service YRS Ltd"). This company was, in fact, dissolved long before the contract of employment was entered into, and could not therefore have been the employing company.

4. The respondent company is active and trading. The claimant's job involved him carrying out vehicle recovery and rescue, including for household name companies which subcontract to the respondent. A response on behalf of "Bradford" asserts that the claimant was its employee of it, but that is not established by the contract of employment. Mr Alderson knew that today would decide which was the employing company of the claimant: Bradford or Huddersfield.

5. The possible judicial decisions arising from the non attendance of Huddersfield, previously joined by a Judge as a party and the papers served on it, are:

5.1. Proceeding with today's hearing and determining the claim in the respondent's absence;

5.2. Postponement.

6. The non attendance of a party puts other parties and the Tribunal to wasted costs and expense, and deprives other Tribunal users of those resources both judicial and administrative. Currently there is strain on those resources as a result of increased workload with no prospect of that reducing.

7. Postponement is not prejudicial to Huddersfield, but it would deprive the claimant of his claim being determined. Proceeding in circumstances where Huddersfield has had the reasonable opportunity to attend but chosen not to, is the just decision. That is particularly so when Huddersfield has sent in documentation seeking to establish that Bradford was the employing company and I can consider that information. The fact that I have not had Mr Alderson's evidence has been his choice.

Findings and determining the claims

8. I have heard sworn evidence from Mr Wood and I have had documents from both sides. There is one document which contains the same raw information (the July pay slip), but, in the version provided to the claimant on an online platform, the employer is identified simply as "Yorkshire Rescue Services", whereas in the version provided by Mr Alderson, the company name appears: Bradford.

9. I consider the pay slip provided by Mr Alderson to be an attempt to mislead the Tribunal and others. It is apparent that this information (ie that the claimant was employed by Bradford), was neither provided to the claimant at commencement of his contract of employment, nor on his pay slip. I consider the fact that Bradford has no preferential creditors as at 5 September 2019 (when it is clear that at that time the claimant had not been paid the wages and holiday pay he was due, and that previous deductions had been made), indicates that it was not the employing company. Further it had no assets other than book debts (again indicative that it was not trading) in circumstances where trucks, premises, IT and so on are a requirement to trade. The claimant was employed in June 2019 and his employment

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ended in August 2019. Much more likely is that the parties intended him to be employed by the trading and functioning company, Huddersfield; either that, or Mr Alderson be the employer himself, given the number of companies he has owned and closed, without the shield of a limited liability company.

10. I find that Huddersfield was the employing company and party to the claimant's contract.

11. On examination of the claimant's bank statements he was paid short by 96.71 in July. He was paid no wages at all in August, in circumstances where £1407.69 (the exact sum of his net pay) is recorded simply as a deduction on the pay slip. There is no clause of his contract permitting such a deduction, even if, on the information provided by Mr Alderson, there was some kind of moral justification to do so. In any event mere allegations by Mr Alderson, do not amount to evidence which I may have taken into account. Further the claimant was paid no holiday pay at the end of his contract, which I calculate on his hours worked at £10 per hour to amount to £260.35 for July and £174.63 for August.

12. The claimant is entitled to the sums due. He is not entitled to notice pay, as the terms of his contract provide for no notice in the probationary period, during which his employment ended.

Dated: 14 February 2020

Employment Judge JM Wade