



EMPLOYMENT TRIBUNALS

Claimant: Mr Terry Marsh

Respondent: The Business Supply Network Ltd

Heard at: East London Hearing Centre **On:** 09 March 2020

Before: Employment Judge Housego

Representation

Claimant: Richard Willson, managing director

Respondent: Did not attend, was not represented and sent no representations

JUDGMENT

The claims are dismissed.

REASONS

1. The Claimant did not attend the hearing. At the start of the hearing I telephoned the mobile phone number given by Terry Marsh on the claim form. The Claimant answered. He said that someone had told him in a phone call he had made that he did not need to attend as it would all be decided on the papers. He could not remember who it was, but he thought it was ACAS. It was about 3 months ago. I referred to the letter from the Tribunal of 31 December 2019. He had received it. He was at work. He would have taken a day off if he had known he had to attend. I declined his request to participate over the telephone.

2. I noted that there was nothing from the Claimant other than the claim form itself. He had not lodged any documents or even a calculation of the holiday pay he claimed. He left it to the Judge to decide on the papers. I decided to proceed with the hearing. This was indeed what the Claimant was expecting.

3. I explained Rule 47 to the representative of the Respondent. He wished the hearing to proceed in the absence of the Claimant. I decided to do so. I took account of what the Claimant said in his claim form. There was no witness statement from the Claimant, and no documentary evidence from him, such as to support his claim for holiday pay. His claim form said only that there should be 5/6 days due as he said that he had taken only taken 2 days holiday since January 2019 (when he started).

4. Mr Willson gave evidence on oath. I accept his evidence as truthful. That evidence was that the fall in the pound since the Brexit referendum had put up his costs as much of what he sold (to businesses) was imported and had increased in cost. But those businesses were not only unwilling to pay more, but ordered less, by reason of uncertainty. They also paid more slowly than before. His company had at one time employed 30 people, but by the time the Claimant left it was 9, and is now 5. On 08 July 2019 he got all the team (apart from the 2 warehouse staff) to a meeting and had told them that there would have to be reductions in staff. He told Terry Marsh and Stuart Halifax that he would have to give them notice. He did not say more than that, and did not give them notice at that meeting. Terry Marsh then said that there was no point in him staying, and walked out, and did not return. Richard Willson sent him his P45 and pay to that date, and the 3 days' holiday pay for holiday which had accrued and not been taken.

5. I find that the Claimant was not dismissed by the Respondent: he resigned with immediate effect on 08 July 2019 when told that in the immediate future he was to be given notice of termination of employment by reason of redundancy. Accordingly he is not entitled to notice pay.

6. The Claimant started in January 2019 and said that he had taken only 2 days holiday and was owed 5/6 days. He did not refer to the 2 spring bank holidays or Easter. I accept the evidence of Richard Willson that he worked out from his records how much holiday Terry Marsh was due, and paid him for the holiday he had not taken. Therefore the claim for holiday pay also fails and is dismissed.

Employment Judge Housego
Date: 9 March 2020