



EMPLOYMENT TRIBUNALS

Claimant: Mr B Rashid

Respondent: Cordant Recruitment Limited

HELD by CVP **On:** 3 February 2021

BEFORE: Employment Judge Shulman

REPRESENTATION:

Claimant: In person, but subsequently Mr N Afsar (legal advisor)

Respondent: Mr P Brill, Solicitor

JUDGMENT

1. The proper title of the respondent is Cordant Recruitment Limited.
2. The Claimant's claim for holiday pay is dismissed on withdrawal by the Claimant.

REASONS

1. The Claimant made a claim for holiday pay and a claim for statutory sick pay. At the outset of the case it was pointed out to the Claimant that the Tribunal did not have jurisdiction to hear the claim for statutory sick pay and that he should address his claim to HMRC Statutory Payments Dispute Team.
2. The Claimant was a warehouse operative and worked for the Respondent from 26 June 2020 until his resignation on 25 August 2020. He accepted that he had a contract of employment which stated his claim for holiday pay amounted to 35.1 hours. At the outset of the hearing and on several occasions thereafter

the Tribunal asked the Claimant for a breakdown of the calculation which brought him to his hourly claim.

3. The Tribunal were aware that from the beginning of the hearing the person described as the Claimant's "legal advisor" was in the same room as the Claimant, who was on CVP. The Tribunal gave the Claimant permission to consult with that advisor. However it became clear early in the Claimant's evidence that the advisor was telling the Claimant what to say.
4. The Tribunal therefore separated the Claimant from his legal advisor and his legal advisor came onto the CVP using a separate device. This was Mr Norman Afsar. The main purpose of having Mr Afsar on the CVP was to enable him to ask the Claimant questions which would help to elicit a calculation in relation to the claim. Despite many opportunities this calculation was not forthcoming.
5. On the other hand when the Claimant was cross-examined the Respondent put to the Claimant the detail of the Respondent's position which resulted in a payment of holiday pay of £208.90.
6. It is not necessary for the Tribunal to go through the detail of the Respondent's calculation. Suffice it to say each and every detail was put to the Claimant and at the end of the day he was unable to challenge the same.
7. The Tribunal allowed the Claimant time towards the end of his case and before the Respondent opened its case to consider the weakness of the Claimant's position as against the apparent strength, albeit untested at that stage, of the Respondent's case.
8. The Claimant came back after time was given, but did not immediately give an indication as to how he was intending to proceed. He did express the view that to withdraw his claim would be a bitter pill to swallow and that he had tried to reach an accommodation with the Respondent. In the end he said that he was more than happy to withdraw his claim and for the case to be dismissed. The Tribunal acted accordingly.

Employment Judge Shulman

15 February 2021