



THE EMPLOYMENT TRIBUNALS

BETWEEN

Mr Douglas Gonzalez Gallego

Claimant

AND

Ms Jessica Colli

Respondent

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

REGION: London Central

ON: 17 January 2021

EMPLOYMENT JUDGE: Mr Paul Stewart

MEMBERS: sitting alone

Appearances:

For Claimant: did not appear and was not represented

For Respondent: did not appear and was not represented

JUDGMENT

It is ordered that the Respondent do pay to the Claimant in respect of arrears of pay, such sum as remains after lawful deduction of Income Tax and National Insurance from the gross sum of £1,020.

REASONS

1. This hearing would have been conducted through Microsoft Teams. The Respondent did not attend as she had not filed an ET3. The Claimant had not attended having explained on the evening of 16 December that (a) he needed a translator because he did not speak English and (b) a hearing starting at 2 p.m. was inconvenient to him as he had to start work at 2 p.m.
2. The Claimant's request had resulted in the Regional Employment Judge asking him the following morning by email if he could provide a figure for what he is owed before tax. The Claimant responded by indicating he had worked 102 hours at £10 per hour.
3. The question arises as to the steps I might take on the non-attendance of the Claimant. Rule 47 states in respect of the subject of **Non-attendance:**

47. If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.
4. I take the view the enquiries made of the Claimant ahead of the hearing indicate a good reason for him not having attended and there is sufficient information in his ET1 and his communication to the Tribunal to justify going ahead with the hearing.

5. In his ET1, the Claimant had identified the Respondent as being “Jessica” at 65 Chiltern Street, London W1U 6NH. Notice of his claim would thus have been directed to Jessica at that address, which happens to be the address of Il Blandfords, a restaurant whose website indicates it to have an email address of collijes@hotmail.com. A search on LinkedIn for Il Blandfords reveals that Ms Jessica Colli identifies herself as the owner of Il Blandfords.
6. The Claimant in his ET1 claims to have worked as a kitchen porter at the restaurant having obtained the job through an employment agency. In section 8.2, he refers to the owner as “Mrs Jesica”. If he, as a recruit, was given to understand that the owner was Mrs Jesica or Mrs Jessica, any correspondence addressed to “Jessica” at 65 Chiltern Street, London W1U 6NH, as the notice of this Hearing was, must have been directed to Ms Colli, the person who asserts on social media that she is the owner and whose name forms the basis of the contact email address for the restaurant. These facts persuade me to amend the ET1 so as to enlarge the name of the Respondent to be Ms Jessica Colli.
7. The Claimant worked from 23 June until 11 July without receiving any wages for his work. He claims to have communicated with “Mrs Jesica” on several occasions “because I did not return to work since I was not paid but she refused to attend me or refused to pay”. The Claimant asserts he worked 40 hours per week.
8. Despite his poor command of English, I am satisfied that the Claimant worked for the 102 hours he claims to have worked over the period of 20 days when he was employed. His ET1 does not state the hourly rate of pay he was promised but his communication to the Regional Employment Judge on the morning of this Hearing indicates it was £10 per hour
9. Accordingly, I give judgment for such sum as remains after lawful deduction of Income Tax and National Insurance from the gross sum of £1,020.

EMPLOYMENT JUDGE - Stewart

On: 31 January 2021

DECISION SENT TO THE PARTIES ON

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AND ENTERED IN THE REGISTER

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FOR SECRETARY OF THE TRIBUNALS