



# EMPLOYMENT TRIBUNALS

Claimant: Mr T Roe

Respondent: Swift Scaffolding LLP

Heard at: Nottingham by CVP

On: Wednesday 7 April 2021

Before: Employment Judge Blackwell (sitting alone)

## Appearances

For the Claimant: In person

For the Respondent: Ms C Cox, HR Consultant

### *Covid-19 statement:*

*This was a remote hearing. The parties did not object to the case being heard remotely. The form of remote hearing was V – video. It was not practicable to hold a face-to-face hearing because of the Covid-19 pandemic.*

# JUDGMENT

The Employment Tribunal Judge gave judgment as follows:-

1. The case is adjourned part heard and will resume by CVP on Tuesday 6 July 2021 at 10:00 am.

# REASONS

## Introduction

1. The purpose of today's hearing was to determine whether Mr Roe was an employee of the Respondents within the meaning of section 230, subsection 1 of the Employment Rights Act 1996. It was agreed that the relevant authorities are the cases of **Tiffin v Lester Aldridge LLP** [2012] ICR beginning at page 647. The decision of the High Court in **Hands, Henning, Reinhard v Ondra LLP**, case number 8C12C01765 judgment being handed down on 14 January 2015 and the decision of the Supreme Court in **Uber BV and Others v Aslam and Others**, a judgment handed down on 19 February 2021.

2. We also identified that Mr Roe's claim for "other payments" relates to the alleged none payment of wages. There will also have to be determined whether Mr Roe was a worker within the meaning of section 230, subsection 3 of the 1996 Act. Again the **Uber** case is relevant; so to is the case of **Bates van Winkelhof v Clyde and Co LLP** [2014] UKSC 32.

3. It became clear from Mr Roe's evidence in answer to the Employment Judge that the signatures appearing at pages 75, 78 and 80 were alleged not to be his. Mr Roe's evidence is that on the day in question, namely 4 June 2018 he was working on a site at Ashby-de-la-Zouch. His evidence will further be that he has never met the witness to his signature at page 80, Mr David Hart, an accountant who practices in Ascot. It will also be Mr Roe's evidence that he has never been to Ascot.

4. Mr Roe produced today some diary entries for the week commencing 4 June 2018, now page 343 of the agreed bundle and two further sample signatures appearing at 344 and 345. Ms Cox on behalf of the Respondents did not object to the introduction of those documents but requested an adjournment so that documents such as site diaries kept by the contractor of the Ashby site might be obtained along with any tracking records that remain in respect of the vehicle used by Mr Roe to get to and from the Ashby site.

5. Given the importance of the authenticity or otherwise of Mr Roe's signature the parties agreed that it would be sensible to instruct a joint handwriting expert. In those circumstances, given the agreement of the parties it was sensible to adjourn so that any other material documents could be obtained by the Respondents and a joint expert could be instructed.

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Employment Judge Blackwell

Date: 12 April 2021

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

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