



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Nagulendram

v

Adam Bass

Heard at: Watford Employment Tribunal (via CVP) **On:** 15 March 2021

Before: Employment Judge Hanning

Appearances

For the Claimant: In Person

For the Respondent: Did not attend

JUDGMENT

1. The respondent's request for an adjournment is refused
2. The respondent has made an unauthorised deduction from the claimant's wages and is ordered to pay the claimant the gross sum of £1,049

APPLICATION REASONS

3. The respondent did not join the video hearing this morning but had sent an email very late last night to the tribunal explaining he was unable to attend as he was suffering symptoms of covid-19. Although he did not explicitly ask, I have treat that as an application to adjourn.
4. I record that a judgment in default was originally entered in this case because the tribunal had not received any response to the claim from the respondent. After judgment had been entered, the respondent applied for reconsideration of that decision and gave evidence to the tribunal on 21 July 2020 that he had sent an ET3 into the tribunal in good time and then heard nothing further.
5. That evidence was accepted and the judgment was set aside but in doing so, Employment Judge Warren directed that, no later than 25 August 2020, the respondent was to clarify with the tribunal administration whether it held a copy of his Employment Tribunal response and if not, then the respondent

was either to provide a fresh copy or to replicate the Employment Tribunal response which he had given evidence that he had previously filed.

6. There is nothing on the tribunal file to indicate any such contact was made and certainly, nothing has been received by the tribunal from the respondent with either a copy or a replicated version of the ET3. In fact, there is no record of the tribunal receiving anything since July 2020 until the respondent's email late last night
7. I am therefore not satisfied that the respondent has given any due consideration to the orders of the tribunal. I am also unsatisfied with the approach taken to the request to postpone, in so far as there was one. In particular with the very late notice with which the email was sent and the absence of any medical evidence, nor any indication of when the respondent says he contracted covid-19 and when he expects to be fit to attend a new hearing.
8. Finally, I am mindful that this is a very old claim, it goes back to 2019, and is coming up for 2 years old. The claimant has been inconvenienced by attending today when he should be attending a lecture but is unable to do so and would therefore suffer further inconvenience if it were postponed and further delayed.
9. In my judgment, the balance of prejudice favours the claimant and we should get on to determine this case. Joining by video ought not to have presented such a significant difficulty for the respondent even if he was suffering from some symptoms and certainly he has produced no evidence which enables me to make a finding that he was unable to attend.
10. If that changes and he is able to produce medical evidence which justifies his non-attendance today, the procedure rules enable him to apply for a reconsideration which will be referred to me to review. But, as of now, I decline any application that was made to postpone and will proceed with the hearing in the absence of the respondent.

JUDGMENT REASONS

11. This is a claim by the claimant for £1,040 which he says is due to him as coaching fees or wages for coaching, provided to APB Football Club which was run under the responsibility of the respondent.
12. I heard evidence from the claimant, whom I found to be an honest and helpful witness whose evidence was consistent with documents which he had filed with the tribunal. Those documents are on the tribunal file and were supplied back in June 2020, I believe in compliance with directions given in advance of the reconsideration hearing which took place in July 2020.

13. The claimant explained that he started coaching for the respondent in about October 2018. At first he was doing so to gain experience by shadowing the respondent and other coaches.
14. Around mid-November 2018 one of the other coaches left, and the claimant took over. Having done so on 25 November 2018 the claimant had a conversation with the respondent in which it was agreed that he would be paid £10 an hour for 4 hours coaching on a Saturday, 1 hour coaching on a Sunday and another 1 hour coaching on a Thursday, making a total of £60 per week. From that time onwards, the claimant worked regularly for those hours, but the respondent did not pay him.
15. Around Christmas, the claimant called the respondent who had promised the claimant payment would be arranged but he needed to talk to the accountants about it.
16. After that, between January and May 2019, the claimant persistently had to call or message the respondent asking for payment. He was given a variety of excuses such as it would take time to obtain the money or he would be paid within a few days but, in the event, no payment at all was received.
17. Around the beginning of May 2019, the respondent told the claimant that the pay for Saturday should only have been £20 rather than £40. The claimant did not accept this and there was an argument but nevertheless, the claimant reduced his claim for Saturdays after the beginning of May 2019 to only £20 rather than £40.
18. He has referred me today to a timesheet which again was with the papers filed with the tribunal in June 2020 and provides a detailed breakdown of every attendance the claimant made and the appropriate fee for it. I note in particular that at the foot of this timesheet, which was originally provided by the respondent for the claimant to complete, it asks for the timesheet to be completed by 9pm every Thursday and returned by email so that payment could be made by Friday afternoon.
19. I find this to be clear evidence that the respondent had agreed to pay the claimant on a weekly basis yet I accept the claimant's evidence that he has not been paid anything at all for the work he undertook between November 2018 and May 2019 when the respondent unilaterally told him that he no longer required the claimant's services. That I can see from the messages, again copied within the documents I have already mentioned, was in a message on or around 23 May 2019.
20. As recorded earlier, the tribunal has received no Response nor any other explanation for the non-payment from the respondent. Specifically, nothing has been heard since the hearing in July 2020 and I accept the claimant's evidence that he too has received no documents from the respondent since that time.

21. I accept the claimant's evidence and find the claim to be well founded. The work was done, there is an agreement that he would be paid, and the respondent has simply not paid him. I should add in that context that In July 2020 the respondent acknowledged at the hearing that he knew he owed the claimant a sum of money but is recorded to have offered no explanation as to why that amount had not been paid and, or course, it is the case that even today, no payment has been made.
22. I therefore allow the claimant's claim and order the respondent to pay the £1,040 that I find to be due.

Employment Judge Hanning

Date: ...10.05.2021..

Sent to the parties on:17.05.2021.....
THY

.....
For the Tribunal Office