



EMPLOYMENT TRIBUNALS

COVID-19 Statement on behalf of Sir Keith Lindblom, Senior President of Tribunals

“This has been a remote hearing not objected to by the parties. The form of remote hearing was CVP. A face to face hearing was not held because it was not practicable and no-one requested the same.”

Claimant

Mr Messaer Dia

v

Respondent

Alivini Co Limited

Heard at: Watford (by CVP)

On: 13 May 2021

Before: Employment Judge Allen (sitting alone)

Appearances

For the Claimant: Unrepresented (Interpreter: Ms G Castagno)

For the Respondent: Mr K Wilford, Solicitor

JUDGMENT

1. The claim is not well founded and is dismissed.

REASONS

1. By a claim submitted to the tribunal on 4 October 2020 Mr Dia claims unauthorised deduction from wages namely 80% of his salary in accordance with the Covid Job Retention Scheme (CJRS).
2. The claimant was employed by the respondent between 10 July 2019 and 30 June 2020. On 30 June 2020 the claimant's contract of employment was terminated by the respondent and he was paid one week's salary in lieu of notice.
3. In 2020 the respondent company which supplies the restaurant trade lost 80% of its business due to the Covid-19 pandemic. The respondent initially laid staff off in accordance with the terms of their contracts of employment. Each member of staff laid off received a letter confirming that they had been

laid off which they could use in support of their claim for state benefits. The claimant was one of those laid off.

4. The claimant was employed as one of a number of delivery drivers. He had a regular delivery area covering south West London and Richmond.
5. When the CJRS was first introduced it enabled employers to pay 80% of the salary of each furloughed employee. However, the scheme only covered those who were furloughed to work no hours.
6. Whilst the respondent had lost a significant portion of its business it had retained 20%. In order to manage that 20%, it required some staff to perform limited hours.
7. The respondent's board of directors took the view there was significant unfairness in the way the CJRS scheme was set up. The board decided not to join; they did not feel they could justify paying staff for the hours they did work (which was up to a maximum of 20 hours per week at most) when other staff would receive 80% of their salary for not working at all if furloughed.
8. No staff were furloughed at the relevant time.

Conclusion

9. The claimant was not furloughed.
10. Since the claimant was not furloughed, he was not entitled to furlough payments.
11. Mr Dia's claim is dismissed.

Employment Judge Allen

Date: ...19 May 2021.....

Sent to the parties on:

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For the Tribunal Office