



EMPLOYMENT TRIBUNALS

London South Region

Heard by CVP on 23/6/2021

Claimant: Mr S Ramsay

Respondent: Harris and Bailey Ltd

Before: Employment Judge Mr J S Burns

Representation

Claimant: in person

Respondent: Ms Aldridge (Solicitor)

JUDGMENT

1. Mr Horsfield's application to strike out the claim against him is dismissed;
2. It is declared that Mr Horsfield is not and since claim was accepted has not been a Respondent and that the Company shown above is the only Respondent.
3. The claim for other payments/unauthorised deduction from wages is struck out.

REASONS

1. The judgment above followed a remote OPH by CVP. There were no technical problems. I reviewed a bundle before receiving oral submissions.

For paragraphs 1 and 2 above.

2. On 10/3/2020 the Claimant applied for an Early Conciliation certificate against Harris & Bailey Ltd, (which had been his employer) and a certificate showing that company as the prospective Respondent was issued on 10/4/2020. The Claimant then presented his ET1 claiming race discrimination and "other payments" on 1/5/2020 against Neville Horsfield, who had not been his employer, but who is a director of the company.
3. The ET1 was rejected because of this and the Claimant notified. He sent a letter dated 27/9/2020 to the Tribunal requesting that his ET1 be amended to show

Harris and Bailey Ltd as the correct Respondent and that his ET1 be accepted on this basis. That application was considered by a judge on 23/10/2020 under Rule 13 and the ET1 accepted. Under Rule 13(4) the effect is that the original defect is deemed to be rectified. Hence the name of the Respondent was rectified to Harris and Bailey Ltd. Through an administrative oversight that was not corrected on the ET1 form which was then served (erroneously) on Mr Horsfield.

4. The result is that the claim was accepted against Harris and Bailey Ltd and not against Mr Horsfield and the latter has never been and is not a Respondent. The company is the Respondent. The ET3 and GPR filed on behalf of Mr Horsfield are to stand as the process of the company, without further service.

For paragraph 3

5. Although the Claimant referred to “other payments” and unauthorised deductions from earnings claim in his ET1 he has confirmed that he received all proper payments up to dismissal and his money claims are for loss of earnings following dismissal and damages for injury to feelings arising from a claimed discriminatory dismissal only.

Employment Judge J S Burns
Date: 23 June 2021

Sent to the parties on
Date: 12 July 2021