



EMPLOYMENT TRIBUNALS

Claimant: Mr Toon

Respondent: Advance Contracting Solutions Limited

Heard at: Cardiff, via video **On:** Thursday 1st April 2021

Before: Employment Judge Howden-Evans

Representation

Claimant: No attendance

Respondent: Mr Critchley, Solicitor

JUDGMENT

The proceedings are dismissed following a withdrawal of the unfair dismissal claim by the Claimant.

REASONS

1. The Claimant's ET1 claim form sought to bring a claim for unfair dismissal. At a preliminary hearing on 24th September 2020, Employment Judge Povey explained that an employee needs to have been continuously employed for 2 years at the date of dismissal, to be eligible to bring a claim for unfair dismissal. The Respondent asserted the Claimant had been self-employed for a period of time (between 10th December 2018 and 6th December 2019) which meant he did not have 2 years' continuous employment immediately prior to his dismissal on 18th March 2020. Employment Judge Povey listed this preliminary hearing to determine whether the Claimant has sufficient service to be able to present an unfair dismissal claim.
2. The Claimant did not attend today's hearing. Rule 47 Employment Tribunals Rules 2013 provides that I can proceed with the hearing in the absence of a party. I have considered all the information that is available to me, including the Claimant's email to the tribunal of 8th October 2020 in which he accepted that he did not have an unfair dismissal claim due to a break in his employment. The claimant explained he feels aggrieved at the decision to dismiss him, but the allegations he has made in the claim form could only be construed as an ordinary unfair dismissal claim and, by

the Claimant's own admission, he does not have sufficient service to bring such a claim.

3. As the Claimant did not attend today's hearing, a tribunal clerk has telephoned and spoken to the Claimant and understands that notice of today's hearing was sent to the correct email address, but the Claimant has not seen that notice.
4. I consider that it furthers the overriding objective, to deal with cases fairly and justly, for me to treat the Claimant's email of 8th October 2020 as the Claimant withdrawing his unfair dismissal claim – as the Claimant has only made an unfair dismissal claim, this concludes these proceedings without parties incurring further expense. If the Claimant disagrees with this decision, he is able to write to the tribunal explaining why he did not attend this hearing and explaining why it would be in the interests of justice for me to alter this decision and I would treat this as an application for me to reconsider this judgment (see Rules 70 to 72 Employment Tribunal Rules 2013).

Employment Judge Howden-Evans
Dated 15th April 2021

JUDGMENT SENT TO THE PARTIES ON 22 April 2021

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FOR THE TRIBUNAL OFFICE