



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4108081/2021

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Held In Glasgow (by CVP) on 20 May 2021

Employment Judge Beyzade Beyzade (sitting alone)

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Mr Graeme Madden

**Claimant
In Person**

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Parasol Limited

**Respondent
No appearance or
representation**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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1. The judgment of the Tribunal is that:

1.1. Aberdeen Standard Investments Limited of 1 George Street, Edinburgh, EH2 2LL be added as a Respondent in this case.

NOTE FOLLOWING HEARING ON 20 MAY 2021

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2. On 08 March 2021, the claimant presented a complaint of non-payment of notice pay (which was treated as an unlawful deduction of wages claim). The respondent did not submit an ET3 Response Form.

Procedural history

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3. The claimant made a claim for unpaid notice pay on 08 March 2021. The claim was against parasol Limited who did not enter a Response. Notice of Hearing was sent to both the claimant and the respondent on 11 March 2021. The

claimant was directed by Employment Judge Whitcombe to provide documentary evidence in relation to his contractual entitlement to 2 weeks' notice pay and a salary of £12,650 per month by a letter dated 20 April 2021. The claimant responded by way of an email sent on the same day with a copy of a document purporting to be a contract of employment between Parasol Limited and the claimant and information about his salary. Standard directions were issued by the Tribunal on 7 May 2021 made by Employment Judge MacLean relating to the final hearing and on the same day Employment Judge McManus directed that the claim should proceed to the final hearing on 20 May 2021 where the claimant would be able to give evidence about his claim.

Hearing on 20 May 2021

4. At the hearing on 20 May 2021 the claimant appeared in person. The respondent did not appear and were not represented. I was satisfied that the respondent did not enter a Response to the claim and that they were served with a Notice of Hearing dated 11th March 2021, and the Tribunal attempted to contact the respondent by telephone today. It was entirely appropriate and in accordance with the overriding objective in the circumstances to proceed with the hearing in the absence of the respondent.

5. I was satisfied that the hearing today could proceed by Cloud Video Platform (CVP) in accordance with rule 46 and that this would be just and equitable. Neither party had raised any issues in terms of the CVP platform being used. I could see and hear the claimant and the claimant confirmed that he could see and hear me.

6. The documents before the Tribunal included a copy of the Claim Form, Notice of Hearing with standard directions, and although there was no Bundle of Productions, I had received a Contract of Employment, a document from the Claimant titled Notes to Reader/Grounds of Complaint and Proof Salary and a further document named HS12197v.2Graeme Madden.

7. The issue that the Tribunal had to determine and investigate at the hearing, with which the claimant agreed was as follows:

(a) Is the claimant entitled to notice pay and if so, how much?

5 The claimant confirmed that his claim was brought pursuant to section 13 of the Employment Rights Act 1996 as an unlawful deduction from wages claim.

8. The claimant gave evidence on his own behalf. Any findings of fact are made in this decision on the basis of the claimant's evidence only. The claimant's evidence has not been contested or challenged. Accordingly, no future
10 Tribunal shall be bound by any findings made at today's hearing.

9. While the claimant was giving evidence to the Tribunal, he suggested that the contract of employment between him and Parasol Limited was a sham.

10. He stated that after securing his assignment with Aberdeen Standard Investments he was told to pick an accountancy company to manage his
15 payroll payments. He chose Parasol Limited, and they provided him with a contract of employment. The claimant gave evidence that he considered himself to be a paying customer of Parasol Limited rather than an employee. Parasol Limited were responsible for organising payment of his taxes and making payments to him, despite purporting to be his employer and giving
20 him a contract of employment.

11. The claimant stated that the contract of employment provided by Parasol Limited was not genuine. The claimant advised that his employer was Aberdeen Standard Investments as they were the company who he performed work for and reported to. The claimant confirmed that his employer
25 was Aberdeen Standard Investments Limited based at 1 George Street, Edinburgh, EH2 2LL.

12. In addition, the claimant was provided with instructions from Aberdeen Standard Investments Limited and his manager was a permanent member of staff work who worked for them namely Laura Tibbits, Delivery Manager.

Laura Tibbits was responsible for his day-to-day management including matters such as sickness absence, holiday, grievances, and disciplinary matters. It was therefore necessary to join Aberdeen Standard Investments Limited to the proceedings in order to be able to properly determine whether the claimant worked for or was employed by Aberdeen Standard Investments Limited and his entitlement to be paid notice pay by them, or whether there was any relationship of co-employment.

13. I decided not to join Henderson Scott Ltd or Experis to the claim as respondents as the claimant advised that beyond providing him with particulars of his assignment with Aberdeen Standard Investments Limited or confirming termination of his assignment, he had no further communications from his recruitment agency and therefore I was not satisfied that there would be a reasonable prospect of the claimant showing that he was an employee or a worker of Henderson Scott Ltd or Experis. Although the claimant stated Henderson Scott Ltd recruited him and contacted him about the vacancy and were referred to in his contract with Parasol Limited, this is not sufficient in my mind to support an assertion that the claimant provided work or that he was employed by them. The claimant confirmed that he was not employed by Experis and he did not ask me to consider joining them to the proceedings.

14. I directed that Aberdeen Standard Investments Limited be joined as a respondent in these proceedings.

15. My Orders as set out below reflect the arrangements for joining Aberdeen Standard Investments Limited to this claim.

CASE MANAGEMENT ORDER

Orders

i) Service of proceedings on the second respondent

Having determined that Aberdeen Standard Investments Limited should be joined as a respondent in these proceedings, I directed that the ET1

Form, together with a prescribed Response Form and a copy of my judgment and directions made today be sent to Aberdeen Standard Investments Limited by the Tribunal to its registered office address of 1 George Street, Edinburgh, EH2 2LL as soon as possible.

5 **ii) ET3 Response**

Aberdeen Standard Investments Limited shall send its response on a prescribed form (ET3) to the Tribunal (and shall send a copy of the same to the claimant, and to Parasol Limited at the same time) within 28 days of the date that the copy of the Claim Form was sent to Aberdeen Standard Investments Limited by the Tribunal.

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iii) Referral to an Employment Judge

Upon the expiry of the time limit set out in paragraph ii) of these orders and as soon as possible after the acceptance of the response, the Tribunal file will be referred to an Employment Judge for directions.

15 **iv) Overriding Objective**

Parties are reminded of their obligation to cooperate with each other and with the Tribunal to give effect to the overriding objective.

Notes:

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1 You may make an application under Rule 29 for this Order to be varied, suspended, or set aside. Your application should set out the reason why you say that the Order should be varied, suspended or set aside. **You must confirm when making the application that you have copied it to the other party(ies) and notified them that they should provide the Tribunal with any objections to the application as soon as possible.**

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2 If this order is not complied with, the Tribunal may make an Order under Rule 76(2) for expenses or preparation time against the party in default.

3 If this order is not complied with, the Tribunal may strike out the whole or part of the claim or response under Rule 37.

5 Employment Judge: Beyzade Beyzade
Date of Judgment: 20 May 2021
Entered in register: 03 June 2021
and copied to parties

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20 I confirm that this is my Orders and Note in the case Graeme Madden v Parasol Limited and another Case No. 4108081/2021 and that I have signed the Orders and Note by electronic signature.