



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr Andrea Ercolani

v

Furniture Emporium London Limited

PRELIMINARY HEARING

Heard at: Reading Employment Tribunal via CVP

On: 6 July 2022

Before: Employment Judge Forde

Appearances

For the Claimant: In person

For the Respondent: Mr Junaid Ali, Director

JUDGMENT

1. The claim is struck out.

REASONS

1. This is an unusual case. The claimant claimed unpaid wages against the respondent. The respondent says that it has never employed the claimant, has no knowledge of the claimant and would have had no need to have employed the claimant.
2. In the hearing before me today the claimant represented himself. The respondent was represented by Mr Ali. In so far as documents before the tribunal are concerned, the claimant provided a copy of what he asserted to be his contract of employment said to have been made on 12 March 2021. The contract provided that the claimant would be employed for 30 days from 15 March 2021 until 13 April 2021. That contract provided for a notice period of one week.
3. It is part of the claimant's case that he worked an additional two weeks beyond the 30 days provided for within the contract and accordingly, he

seeks payment of €1.300 and €650 representing the six weeks that he claims to be due to him from the respondent.

4. The respondent asserts that he has never employed the claimant. Mr Ali, the respondent's Director describes the respondent as being a small business employing three people and which provides value furniture targeted to the rental market. He says that he sources furniture for the business within the UK and the provision it provides is provided through him by way of the respondent's ship which is located in North London.
5. Mr Ali points out a number of issues that he has with the claimant's claim. First, the claimant asserts that he had a relationship with someone said to be the respondent's HR Manager who the claimant said was named as "Dina". Mr Ali says that he has no knowledge of anyone called Dina ever working for his business which he says has been running for approximately four years and two and a half years in its current form. Mr Ali says that the telephone number relied upon by the claimant is not active as is the website address as well. In fact, it is Mr Ali's position the respondent is currently in the process of developing a website address which he hopes will be operative within a short time of today's hearing. Furthermore, the email address that the respondent uses has the suffix "Outlook.com". By contrast, the email address suffix for the contacts that the claimant had contact with in relation to his purported employment with the respondent ends with the suffix "Emporium-London.UK".
6. As part of his duties, the claimant told me that he worked remotely in Italy and undertook various forms of research at the behest of Dina or another person said to have been employed by the respondent who I shall refer to as "Alexandra". He told me that he received instructions from either Dina or Alexandra by way of a website into which he would log in to and once within that website which I described during the course of the hearing as a portal, he would receive instructions as to what he should do. He would then perform those duties and provide the information in return.
7. However, at around the six week mark of his engagement, the claimant claims that his contact with Dina or anybody else that he had contact with and said to have been working for the respondent ceased. He was unable to obtain access to the website or portal and he was unable to reach Dina or anybody else by way of telephone. It is his position that he had performed his duties and was entitled to be paid for the work that he undertook pursuant to the contact I have referred to.
8. Based upon the facts presented to the tribunal there is a clear incongruity between the parties which is impossible to reconcile. On the one hand, the claimant asserts that he was employed by the respondent. On the other, the respondent sets out a series of reasons as to why the claimant was never employed by the respondent. Presented with this information, the tribunal had set down today's hearing to consider whether or not the claim should be struck out on the basis that it was either vexatious or scandalous in accordance with Rule 37 of the 2013 Rules.

9. I find, on the balance of probabilities, the claimant was not employed by the respondent. While I do not doubt for one moment that the claimant understood that he was employed by an entity it is clear that the respondent was not that entity. Because of this, the claim must fail on the basis that the claim has been pursued scandalously within the meaning of Rule 37. Specifically, I considered the following issues:
- That it would be scandalous to allow a false or fraudulent claim to be pursued against the respondent irrespective of the claimant's knowledge of potential fraud.
 - It would not be possible to have a fair hearing of the matter because it was manifestly obvious to the tribunal that the respondent currently named in the proceedings was not the correct respondent to the claimant's claim.
10. In light of all of these reasons, I found that it was not in the interests of justice for the claim to continue. The claim is therefore struck out.

Employment Judge Forde

Date: 31 July 2022

Sent to the parties on: 03 August 2022
For the Tribunal Office