



EMPLOYMENT TRIBUNALS

JUDGMENT

BETWEEN

CLAIMANT

MR M ASARE

&

RESPONDENT

ALLEGIS GROUP LIMITED T/A
AEROTEK STAFFING

HELD AT: LONDON CENTRAL

ON: 22 AUGUST 2022

EMPLOYMENT JUDGE EMERY

REPRESENTATION:

For the claimant:

In person

For the respondent:

No representation or appearance

JUDGMENT

1. The claim of unfair dismissal is dismissed on withdrawal.
2. The claim of an unlawful deduction from his wages and breach of contract succeeds.

3. The claimant is awarded the sum of **£3,957.00**

REASONS

Preliminary Issue – the employer’s identity

1. The respondent has not appeared at this hearing, has not served a defence (ET3) and did not participate in the ET proceedings.
2. The claimant has provided some documents relating to the respondent, and the Tribunal has done its own search.
3. The claimant’s contract of employment says that his employer is Aerotek Staffing Staffing Consultancy UK Limited. A check of companies house shows that this company does not and never has existed.
4. The message trail shows that at all times the claimant communicated with the ‘HR team’ of Aerotek Staffing and Aerotek International. HR team members who messaged him included Jenny Silver and Margaret Martin.
5. The address on all documents he received, including messages and his employment contract is: 22 Wenlock Road, N1. Claimant went to this office – it was a registered office address with no physical presence at this address.
6. One communication he received from Ms Silver was his induction documents, including a call from a staff member of Aerotek and he completed a one-day online induction.
7. The claimant has provided a document from a company called Allegis Group Limited document: this confirms that Aerotek Staffing is a trading name of Allegis Group Limited
8. Companies House information shows that Allegis Group Limited is an active company.
9. The claimant provided documentation evidencing the work he had undertaken for the respondent and his dates of employment.
10. On his employment ending, the claimant was told by message from Ms Martin that he would receive wages in 14 days; he was told he would receive his final payment slip on 9 February. Ms Martin, then wrote saying that all final payment slips were delayed until 14 February 2022. The email that this was sent from – employment@aerotekstaffing.com. On 15 February the claimant wrote to this email querying why he has not been paid. He received an ‘address not found’ response.
11. I concluded from the above evidence that the identity of the claimant’s employer is Allegis Group Limited. The company address is Maxis 2, Western Road, Bracknell, RG12 1RT; Company no 2876353. I concluded that its use of Aerotek

staffing was as a trading name only. The name of the respondent is accordingly changed.

Participation in the proceedings

12. The correct identity of the claimant's employer has only just been established, and it has not participated in these proceedings.
13. Based on what I heard, I considered that the respondent has 'hidden' behind a trading name to attempt to conceal its identity from the claimant. The email address has been discontinued, its trading address does not exist. There is no suggestion that there has been fraud against the claimant (or the respondent) by the use of the Aerotek name.
14. I noted the case of *Mist v Derby Community NHS Trust*; it can 'suffice' for a trading name to be given by a claimant to ACAS and the ET. I concluded that the respondent failed to provide the claimant with the correct details of his employer and that the respondent has tried to avoid paying the claimant by discontinuing an email address.
15. I concluded therefore that it was in the interests of justice for this hearing to proceed.

The facts

16. The claimant was employed from 12 January – 1 February 2022. His evidence shows that he worked 22 days. His salary was £23,500 per year, and he has broken this down based on a 40 hour week / 8 hour day to 11.40 per hour.
17. The claimant provided evidence showing the work he had undertaken (spreadsheets and emails) in his 22 days employment. He has not been paid for any of his days of employment, nor received notice pay.
18. The claimant's employment was terminated by email on 1 February 2022. The reason he was given for his employment ending was he had not completed the internal documentation properly.
19. The claimant's contract of employment provides for a notice period of 30 days. There is no probation period or similar clause.

The Law

20. S.13 Employment Rights act 1996 – the right not to suffer unauthorised deductions
 - (1) An employer shall not make a deduction from wages of a worker employed by him unless—
 - (a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or

...

- (3) Where the total amount of wages paid on any occasion by an employer to a worker employed by him is less than the total amount of the wages properly payable by him to the worker on that occasion (after deductions), the amount of the deficiency shall be treated for the purposes of this Part as a deduction made by the employer from the worker's wages on that occasion.
- (4) Subsection (3) does not apply in so far as the deficiency is attributable to an error of any description on the part of the employer affecting the computation by him of the gross amount of the wages properly payable by him to the worker on that occasion.
- (5) For the purposes of this section a relevant provision of a worker's contract having effect by virtue of a variation of the contract does not operate to authorise the making of a deduction on account of any conduct of the worker, or any other event occurring, before the variation took effect

...

- (7) This section does not affect any other statutory provision by virtue of which a sum payable to a worker by his employer but not constituting "wages" within the meaning of this Part is not to be subject to a deduction at the instance of the employer.

Conclusion on the law and facts

20. I concluded the claimant had suffered an unlawful deduction from his wages by the failure to pay him his wages during his employment and for his notice period, alternatively his contract had been breached by the failure to pay him any wages.
21. I calculated his entitlement to wages during employment as follows: 8 hours a day x 22 = 176 hours x £11.30 = **£1998.80**
22. I concluded his entitlement to notice pay was: one month's salary - £23,500 / 12: **£1958.33.**

EMPLOYMENT JUDGE EMERY

Dated: 24 August 2022

Judgment sent to the parties

On:

24/08/2022

For the staff of the Tribunal office