



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr I Edenabouhien  
**Respondent:** Mayvine Brickwork Ltd

**Heard at:** Watford Employment Tribunal via Cloud Video Platform  
**On:** 4 August 2023  
**Before:** Employment Judge Shrimplin

## Representation

**Claimant:** not represented  
**Respondent:** Mr Mauro (Director)  
not represented

## JUDGMENT

1. The Claimant claimed for unpaid wages prior to 2 August 2022 under s.13 Employment Rights Act 1996. The claim was submitted on 13 March 2023. ACAS conciliation was sought on 15 December 2022 and a certificate issued on 21 December 2022.
2. For the reasons I gave orally during the hearing, under s.23(4) Employment Rights Act 1996, I was satisfied that it was not reasonably practicable for the claim to be presented within three months and concluded that the submission of the claim on 13 March 2023 was reasonable. I therefore had jurisdiction to hear the claim.
3. Under s.13(1) Employment Rights Act 1996, in summary, a claim may be brought by a worker against an employer for a deduction from wages which is not authorised by legislation or consented to by the worker. Under s.13(4), non-payment of wages properly payable is treated as a deduction.
4. Under s.230(3) Employment Rights Act 1996, for the purposes of s.13 Employment Rights Act 1996, a “worker”

means an individual who has entered into or works under (or, where the employment has ceased, worked under)—

- (a) a contract of employment, or
- (b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual;

and any reference to a worker’s contract shall be construed accordingly.

5. Under s.230(4) Employment Rights Act 1996, for these purposes, an “employer” means the person by whom the employee or worker was employed. Having heard evidence from the claimant and Mr Mauro on behalf of the respondent, I find as a fact that the respondent was not the claimant’s employer and that the claimant was a self-employed sub-contractor sourced through the Genuis employment agency.
6. As the respondent was not the claimant’s employer, the claim does not fall within s.13 Employment Rights Act 1996 and is therefore dismissed.

Employment Judge Shrimplin

Date:14 August 2023

JUDGMENT SENT TO THE PARTIES ON

.....13 September 2023.....

AND ENTERED IN THE REGISTER

.....  
FOR I OFFICE

**Note**

Written reasons will not be provided unless a written request is presented by either party within 14 days of the sending of this written record of the decision.

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