



# EMPLOYMENT TRIBUNALS

**Claimants:** (1) Mr B Yefet  
(2) Mr L Jacob  
(3) Mr J Pinhas

**Respondents:** (1) Digimedia Solutions Ltd (In creditors' voluntary liquidation)  
(2) Secretary of State for Business and Trade

**Heard at:** East London Hearing Centre (by CVP)

**On:** 26 October 2023

**Before:** Employment Judge J S Burns

## Representation

Claimants: In person  
Second Respondent: Mr P Soni

## JUDGMENT

1. It is declared that the Claimants were employees of the First Respondent.
2. By 9/11/23 the Second Respondent must recalculate (without any deduction for the directors' loan accounts owed/previously owed by each Claimant of £4359 to the First Respondent) the claims made to it by the three Claimants and pay the sums due to Mr B Yefet and Mr L Jacob to them directly; and in the case of Mr Pinhas to the liquidator of the First Respondent or (if the Second Respondent prefers) to Mr Pinhas directly.
3. If the Second Respondent pays the recalculated sum to Mr Pinhas directly, he must within 7 days of receipt to pay the liquidator the £4359 he owes the First Respondent.
4. The Second Respondent must by 9/11/23 pay the following amounts by way of compensation for their preparation time: Mr Jacob £258, and Mr Yefet and Mr Pinhas £172 each.

## **REASONS**

1. I was referred to the pleadings, to a case law bundle from the Second Respondent, and to document packs entitled "Time Station" and Bank Statement" from the Claimants. I heard evidence from the three Claimants and received submissions from all parties.
2. Mt Soni appeared late at the hearing (at about 11am) and when he did he confirmed for the first time that the Second Respondent had decided on 5/10/23 that the Claimants had been employees of the First Respondent. Ie the main issue in the case (whether the Claimants had been employees of the First Respondent) was conceded. Hence the Claimants' claims for payments from the National Insurance Fund, for notice pay, holidays arrears and redundancy payments had been accepted and paid recently.
3. I accept the Claimant's evidence that deductions from those payments have been made in respect of £4359 due from each Claimant to the First Respondent by way of director's loans. However the loans due from Mr Yefet and Mr Jacob have already been repaid in full to the liquidator by way of instalments ending in June 2023. Hence the Second Respondent, in calculating the sums it admits are now due to them from the NI fund, should not have deducted the loan amounts.
4. In the case of Mr Pinhas he has not yet repaid the loan he owes to the First Respondent but has also received payments from the NI fund net of the loan amount. In his case it would seem prudent for the Second Respondent to pay the £4359 directly to the liquidator of the First Respondent. If it cannot or does not want to do this, it should pay the money to Mr Pinhas so he can pass it on to the liquidator without further delay.
5. Despite resisting the claims and sending in abundant legal authority to support the defence, thus causing an adjourned FMH to be listed in July for today, the Second Respondent decided on 5/10/23 that the Claimants were employees, but then failed to formally concede this or even notify the Claimants about this in writing until yesterday and then only in the form of belated unclear emails and telephone messages from internal staff of the RPS (from Kieran and Eilidh H) rather than from Mr Soni or others on the record in these proceedings. Mr Soni has been on holiday and nothing was done in his absence on behalf of the Second Respondent to manage the case or stay in touch with the Claimants or the Tribunal.
6. Acting reasonably the Second Respondent should have contacted the Claimants by the second week in October to make a prompt formal concession and should have informed the Tribunal that today's hearing was no longer necessary. Its failure to do so has wasted public resources in that a wholly unnecessary FMH has been arranged and taken place today; and also has caused the Claimants (and especially Mr Jacob who has taken the lead) to waste time preparing for and then attending the hearing (which lasted about 2 hours). In the light of the Second Respondent's unreasonable conduct of the

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case, and after hearing evidence about this, my view it is proper that the Second Respondent should pay compensation for at least some of the Claimants' preparation time in this matter - namely 6 hrs in the case of Mr Jacob and 4 hours each in the case of the other Claimants. The hourly rate is £43 per hour.

**Employment Judge Burns  
Dated: 26 October 2023**