



EMPLOYMENT TRIBUNALS

Claimant

Mr Cezar Covataru

Respondent

Thames Solar Electric Ltd

v

Heard at: London South (CVP)

On: 27 November 2023

Before: Employment Judge S Moore

Appearances

For the Claimant: In person

For the Respondent: Ms Ralph, Legal Executive

This has been a remote hearing on the papers to which the parties did not object. The form of remote hearing was Cloud Video Platform (CVP). A face-to-face hearing was not held because it was not practicable and all matters could be determined in a remote hearing.

JUDGMENT

(1) The claim is struck out:

(i) under rule 37(1)(c) of the Employment Tribunals Rules of Procedure 2013 for non-compliance with an order of the Tribunal;

and/or

(ii) under rule 37(1)(a) of the Employment Tribunals Rules of Procedure 2013 on the grounds the claim has no reasonable prospect of success.

REASONS

1. On 7 July 2023 the Claimant brought a claim for unlawful deduction of wages in respect of decorating work and for unpaid holiday pay. The Respondent defended the claim, amongst other things, on the basis that the Claimant had never been an employee or worker of the Respondent. The Respondent stated that the work done had been invoiced by and paid to a company called Expansion Joints Ltd.
2. The Tribunal subsequently made orders requiring the Claimant to send a document setting out how much money he was claiming and how those sums had been calculated. The parties were also ordered to submit in an electronic form all their supporting documents and evidence no later than 2 days prior to the first day of the hearing.
3. By email on 16 August 2023 the Claimant set out his schedule of loss. In that schedule he appeared to be also making a claim of compensation for constructive dismissal.
4. On 25 September 2023 the Tribunal wrote to the parties stating that the claim that had been accepted was for unlawful deduction of wages and failure to pay annual leave. That letter further stated that the parties were ordered to exchange witness statements by 1 November 2023 and that everybody, including the Claimant, needed a witness statement setting out the events in the order they had happened.
5. The Respondent's representative undertook to prepare a bundle of documents for the hearing and asked the Claimant for any documents he had that would assist his claim. On 30 October 2023 the Claimant responded with an email making it clear he had no intention of providing the Respondent with any documents at all.
6. On 20 November 2023 the Respondent made an application to strike out the claim for failure to comply with orders of the Tribunal. That application was not addressed prior to the hearing.
7. At today's hearing the Claimant attended but had not provided any documents to the Respondent or the Tribunal nor had he provided a witness statement. Further he agreed that the decorating work which formed the basis of the claim had been invoiced by a company called Expansion Joints Ltd, of which he was the sole director, and the invoices paid into a bank account in the name of Expansion Joints Ltd.
8. The Respondent's representative reiterated its application to strike out the claim.
9. I allowed that application.
10. The Claimant had failed to provide any documents in support of his claim or a witness statement. Although he could have provided oral evidence at the hearing, Ms Ralph would then have been put in the position of having

to take instructions on that evidence and/or cross-examine the Claimant “on-the-hoof” in circumstances where the Claimant had been ordered by the Tribunal to provide a witness statement but had chosen to ignore that order and had also refused to engage with Ms Ralph’s efforts to prepare a bundle of documents. Further given there was no dispute that the Claimant’s company, rather than the Claimant himself, had done the work which was the subject of the dispute, the claims for unpaid wages and holiday pay had, in any event, no reasonable prospect of success.

Employment Judge S Moore

Date: 27/11/2023