



EMPLOYMENT TRIBUNALS

Claimants:

Mr D Christie

v

Respondent:

Bartley Building Renovation Limited

Heard at: London (South) (via CVP)

On: 25 February 2025

Before: Employment Judge Fredericks-Bowyer

Attendances:

For the claimant:

Did Not Attend

For the respondent:

Ms N Gordon (Project Manager at the respondent)

JUDGMENT

The claimant's claim of unauthorised deduction from wages is not well-founded and is dismissed.

REASONS

1. These written reasons are a written version of the oral reasons given at the hearing. They are produced for the claimant's benefit as he did not attend the hearing.
2. Notice of this hearing was sent to the parties on 3 October 2024. A copy was sent to the address provided by the claimant on the claim form. In my view, adequate notice was given. When the claimant did not join the hearing, the clerk called his representative (his partner) to ensure attendance. The claimant's representative was able to join the hearing by telephone to speak to the clerk. She asked for permission to do the hearing over the telephone rather than by video.
3. The clerk asked me if the claimant could attend by telephone. During that consideration, the claimant's representative's telephone connection disconnected.

The claimant and his representative never rejoined the hearing. The clerk tried to call again but there was no response. I considered that the hearing could continue without the claimant under Rule 47 The Employment Tribunal Rules 2024.

4. Rule 47 also allows me to dismiss the claim simply upon non-attendance. However, I was conscious that the claimant's representative had joined the hearing briefly and it did not seem proportionate to dismiss the claim in those circumstances. It is not as though there had been no engagement in the process at all up to non-attendance. Instead, I asked the clerk to send an e-mail to the claimant's representative to advise that the hearing would begin in ten minutes with or without the claimant. Upon expiry of ten minutes, the claimant had not joined, so the hearing proceeded without him.
5. The claimant's claim is a little contradictory. He says he understood he was self-employed, but then seems to advance a claim which relies upon him being a worker. He says he was supposed to have been paid £15 per hour and worked 200 hours for the respondent. This gave rise to his claim for shortfall in pay of £1,050.40 before tax. However, he also concedes that he was paid by task rather than by hour, although he did not understand why that change was made.
6. The issues in the case are derived from that claim form:-
 - 6.1. Was the claimant an employee or worker of the respondent? If not, he cannot bring a claim.
 - 6.2. If he was an employee or worker, then what was the basis of his pay?
 - 6.3. Was he paid for either all of the days work or all of the work done?
 - 6.4. If not, what is he owed?
7. The claimant presented no documents or witness statements to the Tribunal. He did not attend. I have only the unsupported information from the claim form.
8. I heard evidence from Ms Gordon for the respondent. Her unchallenged evidence, sworn under oath as true, supported the respondent's defence of the claim. I accept the evidence given. Where that evidence contradicted the account of the claimant, I prefer the account of Ms Gordon, given and tested by me under oath, over unverified information provided in the claim form by the claimant or his partner.
9. After considering the written material and the evidence of Ms Gordon, I find the following facts:-
 - 9.1. The claimant was a worker of the respondent, as was conceded by Ms Gordon.
 - 9.2. He was paid a day rate of £80 for one observation day.
 - 9.3. Thereafter, the claimant was paid according to the tasks completed.
 - 9.4. The claimant made himself available for work, and the respondent told him if work was available, on an ad-hoc basis.

- 9.5. The claimant attended work for the respondent on 16 days over a 5 week period.
- 9.6. The claimant was paid for all of the tasks completed on those days.
- 9.7. When the claimant left employment, no payment was outstanding for work completed.
10. The claimant was a worker of the respondent and he is able to bring this claim. He was paid more than the minimum wage for the days he worked, and I find as a fact that he was paid a by task rate and paid for all tasks. Where, as a matter of fact, all work done has been paid, there can be no successful claim for unlawful deduction from wages.
11. It follows that the claim must be dismissed. It is so dismissed.

Approved by: Employment Judge Fredericks-Bowyer

25 February 2025