



EMPLOYMENT TRIBUNALS

Claimant: Mr. S Morris

Respondent: Od Contractors Limited Huddersfield

HELD AT: Leeds Employment Tribunal
(By CVP)

ON: 31 March 2025

BEFORE: Employment Judge Buckley

REPRESENTATION:

Claimant: Did not attend

Respondent: Ms. Barley (Peninsula)

JUDGMENT

1. The claims for unauthorised deductions from wages is **DISMISSED**
2. There are no remaining claims to be determined.

WRITTEN REASONS

3. The claim was dismissed under rule 47 of the Employment Tribunal Rules of Procedure 2024 because the claimant did not attend the hearing.
4. The following reasons explain why I decided to dismiss the claim rather than proceed with the hearing in the absence of the claimant or postpone the claim.
5. Although the claimant initially included a number of claims in his claim form, the only remaining claim is a claim for unauthorised deduction from wages for four days' work from 7am to 5pm from 18-21 January 2024. The respondent says that this was a four-day unpaid work trial and lasted from 17-20 January 2024. The claimant says he is entitled to be paid. If the claimant is a worker and is entitled to the minimum wage the claim would be worth in the region of £375 - £520 depending on whether an hour's lunch break is included.
6. The claimant did not attend the hearing. The clerk was asked to attempt to contact the claimant but had no success.

7. This matter was originally listed for a hearing on 21 January 2025, but that hearing was postponed at the request of the respondent.
8. The claimant was sent the notice of today's hearing on 16 January 2025. It is clear that he received that notice because he replied on the same day.
9. The respondent was under a misunderstanding that there remained a claim for race discrimination, when in fact that claim had been rejected. The Judgment that was sent to the parties on 6 November 2024 striking out the unfair dismissal claim states that the 'remaining claim' was a claim for unauthorised deductions from wages. However, the notice of rejection of the race discrimination claim had not been sent to the respondent so the misunderstanding is perhaps understandable.
10. On that basis they made an application to convert the claim to a preliminary hearing on 19 February 2025. The respondent did not receive a response from the tribunal. The hearing accordingly remained listed for a final hearing today and both parties should have been aware of that.
11. The claimant emailed the tribunal on 10 March 2025 as follows: "Hello my names Simon morris am just seeing if my case it's gunn to be earlier'. He did not provide a case number. The tribunal replied to ask him to provide a case number. He did not reply. That email was therefore not acted upon.
12. On 13 March 2025 the claimant sent to the respondent and the tribunal a handwritten note setting out the dates and times that he worked. There was no covering email to this note.
13. Despite the fact that no order had been made converting the hearing to a preliminary hearing, the respondent filed a preliminary hearing bundle on Friday afternoon (28 March 2025).
14. The tribunal emailed the parties on Friday as follows:

"Judge Buckley has asked me to email you as follows. The sole claim to be determined at the hearing on 31 March is the claim for unpaid wages. The parties should note that the section of the Government guidance on eligibility for the minimum wage entitled 'Unpaid work trial periods' is a useful indicator of the sort of factors that the tribunal will need to consider on Monday when determining whether the claimant was a worker and entitled to be paid the minimum wage during the trial. That guidance is available at <https://www.gov.uk/guidance/calculating-the-minimum-wage/eligibility-for-the-minimum-wage>"
15. Following that, the respondent filed a final hearing bundle, including a small amount of documentation relevant to the substantive claim.
16. It is somewhat surprising that the claimant did not attend today's hearing, given that he recently contacted the tribunal and has provided evidence/a handwritten note in support of his claim.
17. It was not in the interests of justice or proportionate for me to determine the claim in the absence of the claimant, because for there to be any prospect of deciding in the claimant's favour, I needed to hear evidence from the claimant. I considered carefully whether to postpone the hearing, given that the claimant had recently provided evidence and therefore presumably wishes to continue with the claim.

18. It is clear that the claimant had proper notice of the hearing, and efforts were made to contact him today. The hearing did not end until 10.20, so the claimant had time to arrive late. Given the small value of the remaining claim and the delays that there have already been in this matter, taking into account the overriding objective I determined that it was not proportionate or in the interests of justice to postpone and relist the hearing.
19. If the claimant has a good reason for not attending, he can apply for the judgment to be reconsidered and revoked. If he does so, and the judgment is revoked, the matter can be relisted and determined on the merits.

**Approved by:
Employment Judge Buckley**

31 March 2025

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