



EMPLOYMENT TRIBUNALS

Claimant: Mr D Nwankwo

Respondent: Thomas Murton

Heard at: East London Hearing Centre (in public; by CVP)

On: 29 April 2025

Before: Employment Judge Gordon Walker (sitting alone)

Appearances

For the claimant: did not attend

For the respondent: did not attend

JUDGMENT

1. The claim (for unauthorised deduction from wages) is dismissed.

REASONS

1. By claim form dated 4 December 2024 the claimant presented a claim of unauthorised deductions from wages. This followed an ACAS early conciliation process which started on 2 December 2024 and concluded on 4 December 2024. The claim relates to alleged non-payment of wages for work on 24 June 2024 as a construction site labourer. The ACAS early conciliation certificate cites the prospective respondent as Thomas Murton (Canon Brickwork LTD). The address is the registered address of Canon Brickwork LTD. The respondent named in the claim form is Thomas Murton at this same address. Thomas Murton appears to be an employee of Canon Brickwork LTD. The respondent did not present a response.
2. The parties did not attend today's hearing. Rule 47 of the Employment Tribunal Rules 2024 states that the Tribunal may dismiss the claim in the absence of that party. The Tribunal made enquiries of the claimant about his non-attendance by telephone and email, but he did not respond within the time period given by the Tribunal for a response. The claimant also did not respond to the Tribunal's correspondence of 3 April 2025 (two letters)

which asked him to write to the Tribunal by 17 April 2025. It appears that the claimant does not actively pursue his claim.

3. The claimant did not comply with the time limit at section 23 of the Employment Rights Act 1996. The Tribunal wrote to the claimant about this on 19 December 2024. The claimant has not provided any information about why he presented his claim late. There is no evidence on which the Tribunal could conclude that it was not reasonably practicable to present his claim in time. The claimant says in his claim form that he tried to resolve the dispute internally first. This may explain some of the delay, but this is not sufficient grounds on which the claimant can prove that the necessary legal test is met (i.e. that it was not reasonably practicable for him to present the claim in time, and that he presented his claim in a reasonable period thereafter).
4. To bring a claim of unauthorised deductions from wages the claimant must be an employee or worker of the respondent within the meaning of section 230 Employment Rights Act 1996. Even if the claimant had attended today's hearing and had overcome the issue about time limits, he would still have had to prove that he was a worker or employee of the respondent. The claimant claims for one day's wages as a construction site labourer. He may not have been an employee or worker given the casual nature of the work.
5. A further difficulty for the claimant in proving his claim is that he appears to have named the wrong respondent. The Tribunal wrote to the claimant about this on 3 April 2025, asking for his response by 17 April 2025. He did not respond. The ACAS early conciliation certificate refers to a company: Canon Brickwork Limited. If the claimant was an employee or a worker, it is likely that he was an employee or worker of this company. However, the claimant did not name this company as the respondent in this claim. Instead, he named an individual who works at this company. It is unlikely that this is the correct respondent.
6. For all these reasons, the claim is dismissed.

Employment Judge Gordon Walker
Dated: 29 April 2025