



EMPLOYMENT TRIBUNALS

Claimant
J Meyers

v

Respondent
Eco Metering Solutions
Limited

Heard at: Watford (in public; by video)
Before: Employment Judge W Anderson

On: 30 April 2026

Appearances

For the claimant: J Hines (solicitor)

For the respondent: J Jotangia (counsel)

JUDGMENT

1. The claimant was not an employee of the respondent at the relevant time. The claim of unfair dismissal is therefore dismissed because the Tribunal does not have jurisdiction to determine it.
2. The claimant is ordered to pay £2375.00 in costs to the respondent within 14 days of this judgment being received by the parties.

REASONS

Background

1. The claimant brings a claim of unfair dismissal against the respondent. It is his case that he was an employee of the respondent from 14 February 2015 until 3 February 2025. The respondent's case is that the claimant was a director of the respondent and was never its employee.
2. A preliminary hearing was listed for today to determine the issue of employment status by way of a letter dated 31 October 2025.

The Hearing

3. The respondent filed a bundle of 211 pages. This included witness statements from the claimant and the respondent's Ian Nash. Both witnesses attended the hearing and gave evidence on oath. In addition, I received

separately an unsigned and undated contract of employment for Jordan Rowbottom and pleadings relating to a High Court claim brought by the claimant against the respondent during the course of the day I received a costs application from the respondent. Both representatives made oral closing submissions.

Law

4. An 'employee' is defined in section 230(1) of the ERA 1996:

230.— Employees, workers etc.

(1) In this Act "employee" means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment.

(2) In this Act "contract of employment" means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing.

5. In *Ready Mixed Concrete (South East) Ltd v Minister of Pensions and National Insurance 1968 1 All ER 433 QBD* the court set out the following three questions to be taken into account when determining whether there was a contract of service:

a) Did the worker agreed to provide his own work and skill in return for remuneration?

b) Did the worker agree expressly or impliedly to be subject to a sufficient degree of control for the relationship to be one of employer and employee?

c) Were the other provisions of the contract consistent with its being a contract of service?

6. Flowing from that decision it has been determined that there is an irreducible minimum (*Nethermere (St Neots) Ltd v Gardiner and anor 1984 ICR 612, CA*), without which it is very unlikely that a contract of services exist. This consists of:

1. mutuality of obligation
2. personal performance, and
3. control

Findings of Fact

7. The claimant and Ian Nash set up the respondent company in 2015 and each signed a Shareholders Agreement on 14 February 2015.

8. Both Mr Nash and the claimant carried out work in connection with the company that could be described as falling outside of a director's statutory duties. The claimant said that he was involved in the day to day running of the business and he described in oral evidence being responsible for invoicing and chasing payments among other work. Mr Nash did not contest this evidence and said that he also carried out work such as logistical and engineering work.

9. The claimant invoiced the respondent for work he carried out through his own sole trader company. Evidence in the bundle by way of invoices show the claimant invoiced for consultancy.
10. The respondent did not at any time throughout the relevant period (14 February 2015 and 3 February 2025) pay tax or national insurance contributions for the claimant.
11. The claimant received private healthcare through the respondent. Mr Nash said the claimant suggested this and he agreed to it. This was not disputed by the claimant and I accept this evidence.
12. The claimant had no written contract of employment
13. It is the claimant's case that he had to make sure Mr Nash was available to cover his work and agreed holiday dates. Mr Nash said that the two would notify each other when they were taking holidays but nothing more than that. In oral evidence the claimant said that if Mr Nash said he was available to provide cover he would book a holiday. I find that while the claimant and Mr Nash informed each other of holidays, and I accept that the claimant may have chosen not to be away at the same time as Mr Nash, there is no evidence from which I could conclude that the claimant had to book holidays in the way that would be expected of an employee or that he had to ensure there was cover in place when he was on holiday.
14. In 2024 Jordan Rowbottom joined the respondent as employed managing director and at some point after that a shareholder, holding equal shares with the claimant and Mr Nash.
15. In July 2024 Sian Bradley was employed by the respondent.
16. Mr Rowbottom and the claimant did not get on professionally. In October 2025 the claimant decided to step back from the business, and he and Mr Nash decided on 25 October 2024 that this would take place immediately. The claimant sent a WhatsApp message to Mr Nash referring to him 'stepping back from day to day stuff'.
17. Due to concerns about the claimant's handling of the respondent's finances, and other matters, Mr Nash and Mr Rowbottom held a shareholders' meeting on 3 February 2025, in the absence of the claimant, and removed him as a director.
18. The claimant said in his witness statement that he challenged the respondent about being 'dismissed without any procedure being followed.' There were no documents in the bundle to evidence this, but it was not challenged by the respondent, and I accept the claimant challenged the action taken by the respondent. I have not seen the terms in which the challenge was put.
19. On 29 March 2025, the respondent having instructed an HR firm, the claimant was invited to an appeal meeting about his dismissal. The letter is not in the bundle. A second letter dated 7 April 2025 offering a date for the hearing is

set out in terms that would ordinarily be expected for a notification of an appeal against a conduct dismissal to an employee. The words 'employee' and 'employer' are not used to describe the relationship between the claimant and the respondent. Dismissal is referred to, but not dismissal from employment.

20. The claimant declined to engage and was notified in a letter dated 5 May 2025 that his dismissal was upheld. The letter sets out clearly that the removal of the claimant as a director is upheld but then goes on to refer to the possibility of an employment tribunal and justify the dismissal in terms of unfair dismissal law.
21. Mr Hine said that if the respondent did not believe the claimant to be an employee, then it would not have offered a right of appeal against the decision to remove him. Mr Nash was questioned about this and said he had been told what to do by his advisors.
22. I find that the respondent followed the advice of its HR advisors in offering and carrying out an appeal. The wording of the letters was such that employment status is not admitted at any time. I do not accept that following what appears to be poor advice from a professional, amounts to an admission that the respondent accepted that the claimant was an employee.
23. There is no correspondence in the bundle which refers to Mr Nash or the claimant becoming employees of the company, at any time during the relevant ten years. The claimant said that it was always intended and did not happen due to the low revenue streams of the respondent, meaning it was not in a position to pay employee benefits, but in reality he was and always had been an employee. Mr Jotangia put it to the claimant that there would be some documents relating to this, particularly after Mr Rowbottom became an employee. The claimant said that agreements were mostly verbal but there may be WhatsApp messages if he looked for them. He said this on a number of occasions in his evidence and also said that the respondent had refused access to emails and/or deleted emails. The claimant provided no disclosure for the purposes of this hearing until he provided a copy of Mr Rowbottom's contract a few days ago. He did not raise in his witness statement that he believed that documents that could prove his case had been deleted. He made no application for specific disclosure. He had apparently not made a search of his own WhatsApp account for relevant messages. The claimant has been professionally represented throughout. I find that that the respondent did not accept that Mr Nash and the claimant were effectively employees of the respondent, or that the two becoming employees formally was a long term plan. I do not find it credible that there would be no documentary evidence to that effect over a period of ten years and have also taken into account the fact that even after Mr Rowbotom was employed a further year passed in which no such action was taken in relation to Mr Nash and the claimant.

Submissions

24. Both representatives made oral submissions which are summarised below.

25. For the claimant Mr Hines said the claimant contends that he was an employee and in support of that he cites the work he did and that he was required to devote his full time to that. Jobs would have gone undone had he not done them. The way that the respondent treated the claimant in allowing a dismissal appeal indicates it accepted tacitly that he was an employee. Jordan Rowbottom was given a contract and there is clear evidence that the claimant and Mr Nash treated him in the same way as they saw themselves. Paragraph 4 of the grounds of claim indicate that the claimant was an employee carrying out work. The respondent considered him to be covered by the disciplinary and grievance procedure. Unproven allegations of fraud and the High Court proceedings are not relevant to this claim.
26. Mr Jotangia, for the respondent, said there was no iota of evidence that the claimant was performing tasks as an employee. There was no control or mutuality of obligation. Regarding the appeal, Mr Nash's evidence was that he was advised to offer this, and it does not indicate acceptance that the claimant was an employee. There is no reference in the letters about the appeal, or the bundle, to holiday pay or any other outstanding pay on dismissal or otherwise. It is telling that after Mr Rowbottom was given a contract of employment the claimant and Mr Nash continued as they had been, performing their roles as directors and shareholders. The claimant's credibility is brought in to question due to fraud allegations and the high court proceedings.

Decision with reasons

27. In considering whether the claimant was an employee of the respondent I must consider whether there was an employment contract between the individual and the employer, either express or implied. It is agreed between the parties that there was no written contract. For the reasons set out below I conclude that there was no implied contract. The only contract the claimant held was a shareholder agreement.
28. There is no evidence that the claimant was under an obligation to carry out any particular work for the respondent, at all or personally. It was agreed between the claimant and Mr Nash that he would look after banking and finances and other matters. There is nothing before me to suggest that the claimant must do this personally, or that if he had sought to bring in a substitute he would have been stopped from doing so. There is no evidence to suggest that the claimant was under any sort of control by the respondent.
29. While the claimant invoiced the respondent as a consultant, the respondent was his customer, but where he was a sole trader and indicated in evidence he set his business up in order to invoice the respondent for his work, I attach little weight to this factor where I do not need to consider whether the claimant was a worker.
30. I do not accept that there was any mutuality of obligation between the respondent and the claimant in terms of the respondent providing work or the claimant being obliged to perform it. Mr Nash and the claimant started a

company together, they agreed to, and did, carry out, work in their spheres of competence to keep it going as it was not generating a lot of money.

31. Considering the classic *Ready Mixed Concrete* test as set out above, there is simply no evidence before me that in the performance of services the claimant had agreed, or in fact was, subject to the respondent's control in a sufficient degree to make the respondent his employer.
32. In terms of the other provisions of the working relationship, I have taken into account that the claimant received health insurance, and that he invoiced for his time whether he was on holiday or not. I do not find that these matters indicate that an employment contract existed. The claimant submitted invoices which he authorised for payment. The claimant suggested that health insurance should be provided which Mr Nash agreed to. As noted above I have found that the claimant did not need permission to take holiday, nor was he made to book it in advance. The appeal meeting he was offered was suggested by an outside advisor to the respondent and although it is unclear as to what was intended by this, there is no admission in the process that the respondent accepts there was a contract of employment.
33. For the reasons set out above I find that the claimant was not an employee of the respondent. As he was not an employee then he does not have standing to bring a claim of unfair dismissal against the respondent, and the claimant's claim is therefore dismissed.

Costs application

34. After I gave my decision on employment status the respondent made an application for costs under Rule 74(2)(a) and (b) Employment Tribunal Procedure Rules 2024. The respondent sought £9500 in respect of counsel's costs and the costs of the instructing HR company.
35. Mr Jotangia said that this was a matter that ought never have come to this juncture and it was unreasonable of the claimant to bring the claim particularly where he is represented. Furthermore, the claimant had acted unreasonably in its failure to adhere to case management directions.
36. Mr Hines, for the claimant, said that the starting point in the employment tribunal is that each party pays its own costs. He said that an award of costs was a discretionary exception and it was not so unreasonable for the claimant to have brought the claim that costs were warranted. The tribunal needed to assess all the evidence. He said that the amount requested by the respondent was excessive.
37. I find that costs are not warranted on the ground that bringing the case was unreasonable or because of the prospects of success. While the case was weak, I do not find that where the respondent offered an appeal process and its HR consultant used language and case law relevant to misconduct proceedings against an employee throughout that process, that the claimant believing he had some prospect of success was unreasonable.

38. On the matter of the claimant's conduct throughout the proceedings, I note that he made no disclosure, except until a few days ago when he disclosed an employment contract for Mr Rowbottam without further explanation. Disclosure was due on 14 November 2025. He then went on to assert for the first time in evidence that the respondent had limited the claimant's access to documents and/or deleted them. The claimant was ordered to file his witness statement on 12 December 2025. He did not do so and the witness statement before me today was dated 22 April 2026. The claimant was represented throughout the proceedings and no explanation for these delays was provided to the tribunal. I find that this behaviour constitutes acting unreasonably for the purposes of Rule 74 (2)(a), and award the respondent 25% of the costs sought, being £2375.00, payable within 14 days of receipt of this judgement.

Approved by:

Employment Judge W Anderson

Date: 30 April 2026

Sent to the parties on: 30 May 2026

For the Tribunal Office