

EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4114483/2014 Hearing Held in Edinburgh on 21 March 2017

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Employment Judge: M A Macleod (sitting alone)

10 John Harrower

Claimant
Not Present
Not Represented

15 Elite Joinery Manufacturing Ltd

First Respondent
Not Present
Not Represented

20 Secretary of State for Business, Innovation and Skills

Second Respondent
Not Present
Not Represented

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Tribunal is that the claimant's claim is dismissed.

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REASONS

35 1. This is a claim in respect of unlawful deductions by the respondent from the claimant's wages. The first respondent submitted an ET3 which stated that they had no liability for the claimant's claims on the basis that the company from which they had transferred the business had been insolvent, namely Descant Limited.

40 2. The second respondent submitted an ET3 in which it admitted that Descant Limited was insolvent, but did not admit that the first respondent was insolvent, and asserted that there was a TUPE transfer to the

employment of the first respondent in respect of the claimant's employment.

3. On 22 December 2016, the Employment Tribunal received a telephone call from one of the claimants with whose claims the claimant in this case was combined, advising that the claimants had received payments from the second respondent in respect of their outstanding sums sought.
4. On 9 January 2017, the Employment Tribunal wrote to the claimant to inquire whether he had reached a settlement in his case.
5. No response was received to that letter, despite a reminder being sent on 13 March 2017.
6. The claimant did not attend at the hearing on 21 March 2017, nor did he give any indication to the Tribunal that he did not intend to appear.
7. In the absence of the claimant, and of any information tending to show why he was not in attendance, I concluded that the claimant did not intend to pursue his claim, and that the reason for this is likely to have been that he received payment from the second respondent like the other claimants who had communicated with the Tribunal.
8. In all of these circumstances, the claimant's claim is dismissed under Rule 47 of the Employment Tribunals Rules of Procedure 2013.

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Employment Judge: Murdo A. MacLeod

Date of Judgment: 21 March 2017

Entered in register and copied to parties: 22 March 2017