



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

AND

Respondent

Mr Harpreet Purewal

Mr Kashmir Singh Judge

Heard at: Mold

On:

10 October 2018

Before: Judge Brian Doyle, President (sitting alone)

Representation

For the Claimant: Not in attendance or represented

For the Respondent: In person

JUDGMENT

The claim is not well-founded and it is dismissed.

REASONS

1. The claimant did not attend the hearing. The respondent showed me an email from the claimant indicating that he did not intend to attend the hearing and asking that it be dealt with in his absence. He provided no reason for his non-attendance.

2. As appears from the ET1 claim form, the claimant asserts that he was employed by the respondent alone until the shop in which he worked closed on 24 March 2018. He asserts that his last date of payment of wages was 9 March 2018 and that he has not been paid between 9 and 24 March 2018. He complains of unfair dismissal and he claims a redundancy payment, notice pay, holiday pay and arrears of wages, as well as compensation for an alleged failure to provide written particulars of employment.

3. As appears from the ET3 response form, and in what the respondent told the Tribunal at the hearing, the respondent's position is quite different and all aspects of the claim are disputed. He asserts that the claimant's employment had not ended and was continuing (at least at the time of the ET3). The respondent's

position is that the claimant was employed by him and Mr Sukhwinder Dulay (in what must be effectively a partnership). Mr Dulay is said to be the claimant's ex-brother-in-law and that Mr Dulay permitted the claimant to live above the shop. The respondent and Mr Dulay then had a serious disagreement and the respondent ceased to be involved in the business on or around 23 March 2018. Although not tested at the hearing, the respondent suggests that violence was involved and that the disagreement has been damaging of personal and family relationships. The shop continued to trade, but it is asserted that it eventually ceased trading with unpaid bills, and that the claimant and Mr Dulay have taken property from the premises and caused damage.

4. Neither the claimant's case nor the case of the respondent has been tested in evidence. There is the possibility that the claimant's employment continued and that Mr Dulay may be jointly liable for that employment with the respondent or potentially liable as a sole employer if the employment continued for any period of time after the respondent ceased to be involved in the business. The evidence, if led and tested at a hearing, might tend to show that any partnership between the respondent and Mr Dulay had ended and that the business (and the claimant's employment) transferred to Mr Dulay.

5. However, none of that can be established without at the very least the claimant attending to give evidence and to establish a case (regardless of where the formal burden of proof might lie). The question might also arise as to whether Mr Dulay should be a party to the proceedings.

6. The claimant has not attended the hearing. The Tribunal has considered the contents of his claim. However, the Tribunal is unable to uphold his claim in circumstances where he is not willing to prosecute it and where there is a disputed basis for that claim. It would not be in the interests of justice to adjourn the hearing to another day so that the claimant might be given a further opportunity to attend and the position of Mr Dulay also considered. The claimant has provided no reason for his non-attendance.

7. Accordingly, the Tribunal finds that the claim is not well-founded and it is dismissed.

Judge Brian Doyle
10 October 2018

JUDGMENT & REASONS SENT TO THE PARTIES ON

.....20 October 2018.....

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FOR THE TRIBUNAL OFFICE