



EMPLOYMENT TRIBUNALS

SITTING AT: LONDON SOUTH

BEFORE: EMPLOYMENT JUDGE FRANCES SPENCER

BETWEEN: MR R C BIGBY CLAIMANT

AND

NATIONAL RESOURCING SOLUTIONS LIMITED RESPONDENT

ON: 26TH FEBRUARY 2018

Appearances

For the Claimant: In person
For the Respondent: No appearance

JUDGMENT

The Judgment of the Tribunal is that the Respondent made unauthorised deductions from the Claimant's wages in the sum of £913. The Respondent is ordered to pay the Claimant £913.

The proper Respondent to these proceedings is National Resourcing Solutions Limited and title to the proceedings is amended accordingly.

N.B the above award is expressed as a gross figure. Provided that the Respondent makes appropriate deduction in respect of income tax and national insurance and accounts therefore to the proper authorities payment of the Claimant of the net sum will represent a valid discharge of this judgment.

REASONS

1. These written reasons are given in the light of the Respondent's non-attendance today.
2. This was a claim presented on 4th November 2017 naming "NRS–Stephen Dorwood" as the Respondent. The Claimant claims that he had

not been paid for his last week at work and that the Claimant was owed one week's pay amounting to £913 gross. In a Response, presented on behalf of National Resourcing Solutions Ltd ("NRS"), the Respondent stated that the Claimant was a self-employed carpenter (or variously a self-employed contractor or self-employed worker). In its grounds the Respondent says that the Claimant's first timesheet was processed and outsourced to HR Solutions Ltd, that their client Professional Build Ltd signed terms of business with NRS and that their standard terms provide a list of payee agencies used. The Claimant was made aware that they outsource their sub contract workers and that he had received payment from HR Solutions. Attached to the response was a contract between eBrit Labour Services Ltd and Professional Build Ltd dated February 2017 for the provision of the supply of contractors.

3. An email was sent at 10.44 a.m. from the "PA to the Director" BCL Recruitment to say that Mr Dorwood would be unable to attend the hearing at 11 a.m as he lived in Lincolnshire and was unable to travel due to inclement weather conditions. The email however made no request for a postponement and did not explain why, given the weather was no surprise, arrangements had not been made earlier for someone else to attend. In the circumstances, (given the brevity of the explanation and its lateness) I decided to go ahead in the absence of the Respondent, having considered the content of the Response.
4. Mr Bigby explained that the Respondent was an employment agency. He had telephoned NRS saying he was looking for work and sent them his references, his bank account details, a copy of his passport and his CIS(4) card. They sent him the job working at Professional Build by phone.
5. When he arrived he introduced himself and produced his CIS(4) card. He worked there for 3 weeks.
6. The Claimant was paid direct into his bank account. The first payments had been made by One Step Awa Limited, (who he understood had then tried, but failed, to cancel those payments).
7. The Claimant understood that he was contracted by NRS as a supplier of workers to the building trade. He had never heard of HR Solutions, eBrit Labour Services, or One Step Awa Ltd or told that he would be paid by another entity. He had received no paperwork. He had never met Mr Dorwood, (who he had named as he understood dealt with HR matters for NRS.) (NRS had subsequently asked him to go back to work at Professional Build, but given the difficulties with payment he had declined.)
8. In the circumstances I conclude that the Claimant had entered into a contract for the provision of labour with NRS Solutions and that NRS Solutions had not paid him for work that he had done. The Claimant was not a party to any arrangement by the Respondent to subcontract payment, which was an internal matter for the Respondent.

9. Further the Claimant was a labour only subcontractor on the CIS4 scheme, under which tax is deducted from wages at 20%. Such individuals are generally “workers” as defined in section 230(3) of the Employment Rights Act 1996 have the right to bring a complaint under section 13 of that Act for non payment of wages.
10. The Respondent should pay the Claimant for the week for which he remains unpaid.

Employment Judge F Spencer
2 March 2018