



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr R Bartlett

**Respondent:** Anabatic Limited

**Heard at:** Cardiff **On:** 25 September 2019

**Before:** Employment Judge S Jenkins

## **Representation**

**Claimant:** No appearance or representation

**Respondent:** Mr A Hussain (Consultant)

# JUDGMENT

1. The Respondent's name is amended to Anabatic Limited.
2. The Claimant's claims are dismissed on withdrawal.
3. The Claimant is ordered to pay the Respondent the sum of £156.00 in respect of a preparation time order.

# REASONS

## Background

1. The hearing was to consider the Claimant's claims in relation to unpaid holiday pay and failure to provide itemised payslips. However, at the same time as the time at which the hearing was due to commence, the Claimant sent an email to the Tribunal confirming that he wished to withdraw his claims. I then proceeded with the hearing in his absence.

Dismissal on Withdrawal

2. I explained to Mr Hussain, an external consultant who worked with the Respondent and who was representing it, that I would issue a judgment dismissing the Claimant's claims on withdrawal.

Amendment of Respondent's Name

3. I also noted that there appeared to be an error in the Respondent's name in that it was stated to be Mr Hussain personally whereas it should have been the name of the employing company, Anabatic Limited. From reading the ET1 and ET3 and various copy payslips that Mr Hussain had submitted, I was satisfied that I should direct that the name of the Respondent should be changed.

Preparation Time Order

3. Mr Hussain then made a claim for a preparation time order, stating that he had spent a day in preparing the case prior to the hearing and was due to spend the entirety of the day hearing the case, having travelled from Sheffield. I explained to Mr Hussain, that I had power to consider an application for a preparation time order, but that Rule 75(2) of the Employment Tribunal Rules of Procedure ("Rules") did not extend to time spent at any final hearing.
4. On further questioning from me, Mr Hussain confirmed that he had spent four hours at the Respondent's premises preparing the case, although he had been at the premises for the whole day.
5. Rule 76 provides that a tribunal may make a preparation time order, and shall consider whether to do so, where it considers that a party has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings or the way that the proceedings have been conducted.
6. I considered the application and was satisfied that the Claimant had acted unreasonably in his conduct of the proceedings by virtue of only withdrawing his claims on the day of the hearing.
7. I was also satisfied that it would, in the circumstances, be appropriate to make a preparation time order in respect of the Claimant's unreasonable conduct, and that making such an order in respect of the four hours spent in preparation would be reasonable. Applying the hourly rate set out in the Rules of £39.00, that then led to a total sum of £156.00.

Employment Judge S Jenkins

Date: 25 September 2019

JUDGMENT & REASONS SENT TO THE PARTIES ON 30 September 2019

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FOR THE TRIBUNAL OFFICE