



EMPLOYMENT TRIBUNALS

Claimant: Mr I Finnegan

Respondent: Mr James Murphy

Heard at: Manchester

On: 2 December 2020

Before: Employment Judge Leach

REPRESENTATION:

Claimant: Not in attendance

Respondent: Not in attendance

JUDGMENT

The claimant's claim of unauthorised deduction from wages is dismissed.

REASONS

1. The claim was brought in order to consider and decide on the claimant's claim that the respondent had made an unauthorised deduction from the claimant's wages. The claims that he was not paid his wages for working eight days for the respondent on a festival site in July 2019.
2. The hearing took place in Employment Tribunal room 11 in Alexandra House, 14-22 The Parsonage, Manchester, M3 2JA, which is a building open to members of the public. The parties were instructed to attend the hearing by telephone and a conference phone was present in the room. I was physically present in the room.
3. The respondent had not entered a notice of appearance and therefore would only have been entitled to participate in the hearing to the extent that I permitted it. In any event the respondent did not attend.
4. The claimant did not attend the hearing either. I waited on the conference call number from 10.00am to 10.15am but neither party attended.
5. I decided that I was able to make a determination on the information in front of me. I have decided to dismiss the claimant's claim. These are my reasons:

- (1) The claimant claims non-payment of wages in July 2019. The claim form was not presented until 21 April 2020.
 - (2) The claimant had engaged in early conciliation through ACAS. The Early Conciliation (EC) certificate shows the date of receipt by ACAS of the EC notification was 14 September 2019 and the date of issue of the EC certificate was 28 October 2019.
 - (3) Section 23 of the Employment Rights Act 1996 (ERA) sets out time limits for the presentation of claims. Essentially it requires that a claim must be presented within 3 months of the date of the claimed unauthorised deduction/non payment unless it was not reasonably practicable to do so.
 - (4) Section 207B ERA extends these time limits in order to facilitate ACAS early conciliation. Extensions of time are limited, as set out at s207B. In this case, applying s207B, the extension of time was one month from the date of the issue of the EC certificate (27 November 2019). The claim form was therefore presented some 5 months out of time.
6. As the claimant was not in attendance I had no information to be able to determine whether it was not reasonably practicable for the complaint to be presented in time. I therefore dismiss the claim.

Employment Judge Leach
Date: 28 January 2021

JUDGMENT AND REASONS SENT TO THE PARTIES ON
1 February 2021

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