



EMPLOYMENT TRIBUNALS (ENGLAND & WALES)
LONDON CENTRAL

BETWEEN

Mr H Sant-Cassia

Claimant

-AND-

One&Only Pro Ltd

Respondent

Employment Judge:

Mr J S Burns

Representation:

No appearance

Respondent:

Sohail Akram (shareholder of the company)

Judgment

The claim is dismissed.

Reasons

1. The hearing was conducted by CVP. There were no technical problems.
2. The Claimant presented an ET1 on 17/3/2020 in which he claimed arrears of pay. The Respondent in its ET3 denied that the Claimant was an employee or entitled to pay.
3. The Claimant lodged a statement and documents and yesterday the tribunal sent to his email address joining instructions for the hearing today, but he did not join the hearing and when the tribunal clerk tried to telephone him, his phone was "switched to voicemail". I decided to proceed with the hearing.
4. I read the ET1 and ET3 and various other documents which had been sent to me including a Claimant statement and documents in his bundle and a statement from Katherine Neary, (the Respondent's payroll administrator) and a screenshot of a message sent (I presume by the Claimant) by digital media in April 2019 which reads "*Listen I'm not some kind of employee or servant*".
5. I heard evidence on oath from Mr Sohail Akram who told me that the Claimant was never an employee of the Respondent but that he had worked as a fund-raiser on the basis that he would be awarded shares in the Respondent in reward for success. Mr Akram believed that the Claimant had been allocated a few shares – perhaps 1% - but he believed that the shares were worth very little as the Respondent is a private company still in its start-up phase.
6. The Claimant's statement and documents indicate that the Claimant did not enter into any employment contract and did not expect or receive any wages. This is also confirmed by Katherine Neary. It appears from emails between the Claimant and Mr Emraan Javed (who is the majority shareholder) in March 2018 that the informal arrangement between them was that

in exchange for his work Mr Javeed would allocate shares in the Respondent to the Claimant. This is broadly consistent with Mr Akram's evidence.

7. I find that the Claimant was not an employee of the Respondent. Furthermore he was not, even on his own case, due wages as defined in paragraph 27 of the Employment Rights Act 1996. As he was not an employee he cannot complain that he was not issued with a statement of terms and conditions, and nor can he bring a contract claim in the Employment Tribunal.
8. He was not a worker or employee of the Respondent so cannot claim holiday pay.
9. Hence the claims must be dismissed

J S Burns Employment Judge
London Central
2/12/2020
For Secretary of the Tribunals

date sent to the Parties – 2/12/20