



EMPLOYMENT TRIBUNALS

COVID-19 Statement on behalf of Sir Keith Lindblom, Senior President of Tribunals

“This has been a remote hearing not objected to by the parties. The form of remote hearing was CVP. A face-to-face hearing was not held because it was not practicable and no-one requested the same.”

Claimant

Miss Emma Gracias

v

Respondent

Re:Adapt Ltd

Heard at: Watford (by CVP)

On: 4 June 2021

Before: Employment Judge Allen (sitting alone)

Appearances

For the Claimant: Unrepresented

For the Respondent: Mr Frank, director

JUDGMENT

1. The claim is not well founded and is dismissed.

REASONS

1. By a claim submitted to the tribunal on 31 July 2020 Miss Gracias unlawful deduction from wages, namely all the money she was owed for work she carried out under contract of employment for the period of two weeks.
2. The claimant was employed as a property lister between 13-29 June 2020 and it was her role to list properties for rent on Gumtree and similar letting platforms for her employer.
3. Miss Gracias found this employment in an advert posted on line to the Gumtree website. Page 18 of the claimant's bundle. She sent her expression of interest on 12 June 2020. There followed an exchange of emails in which the prospective employer sent her details about the role and some information about himself.

4. The prospective employer used the email Jasonmatthewfrank1971@gmail.com and said he was a director of a management consultancy formed the previous year but now dealing in property. The prospective employer said he was looking for someone to post property listings on their own Gumtree account (not his) among others. He offered 5 hours work per week but suggested that as his reputation grew so would the hours. He instructed her to open her own accounts on Gumtree, Spareroom and OpenRent. She would then pass on his mobile phone number to prospective tenants – he even suggested that Gumtree could pass enquiries direct to him reducing the need for her to do extensive admin. He concluded that email by suggesting a temporary work agreement with the option to extend the contract.
5. Miss Gracias decided to accept the post and received as a pdf attachment to an email a contract of employment which the prospective employer suggested she signed using DocuSign. Miss Gracia did not use DocuSign she chose instead to use a different online document validation service, DocHub.
6. The contract of employment carries a DocuSign identifier in the top left-hand corner. Mr Frank has since opened a DocuSign account and used it to search the identifier that appears on the contract of employment. He has produced screen shots that show this identifier is not known to DocuSign. He has also provided screenshots of the DocuSign process which does not correspond with the process followed in this case. Miss Gracias confirmed that she did not access the DocuSign certificate of completion.
7. Mr Jason Frank is a director of Re:Adapt Ltd. Re:Adapt was incorporated in July 2019 and has been dormant since August 2019. The public listing for this company with Companies House shows the date of Incorporation the company purpose – management consultancy and both directors. Mr Frank’s full name and date of birth is part of the register entry. Re:Adapt has never traded and never employed staff.
8. Mr Frank is adamant he has never:
 - 8.1. Did not hire Miss Gracias,
 - 8.2. has never had a Gumtree account,
 - 8.3. did not place the job advertisement
 - 8.4. Jasonmatthewfrank1971@gmail.com is not his email address
 - 8.5. Did not have a DocuSign account in June 2020
 - 8.6. Has no knowledge of the properties the claimant was asked to post on line.

9. His co-director Miss Ghislaine Ho-Nhut confirmed that Re:Adapt has never traded has no knowledge of the email address used in communications with Miss Gracias and would have known if Mr Frank hired someone because as co-directors, they are each fully accountable for what the company does.

Conclusion

10. I have no doubt that Miss Gracias responded to a job advertisement on Gumtree and corresponded with a person representing himself as Jason Matthew Frank of Re:Adapt Ltd and using the email address set out above.
11. The history provided by the prospective employer is all publicly available on the Companies House website.
12. The email address set out above does contain Mr Frank's full name and date of birth.
13. It is a matter of common public knowledge that anyone can obtain an email address in any name they wish provided it is not already claimed by someone else consequently that an email address contains Mr Franks personal details is not evidence that it was Mr Franks website.
14. That the contract bears a DocuSign identifier is significant since DocuSign has no record of any such document. In the circumstances I must conclude the document is not genuine.
15. The standard of proof required in this tribunal is the 'balance of probabilities'. Whilst Miss Gracias has provided copies of the job advertisement, email correspondence and the contract of employment I am not persuaded that any of these came from Mr Franks since the information they contain is a matter of public record and easily obtained with anyone who wished to use it dishonestly.

Employment Judge Allen

Date: 8/6/2021

Sent to the parties on: 8/6/2021

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For the Tribunal Office