



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondents**

**Mr M Briah**

**Patterson Construction Ltd**

**Heard at:** London Central

**On:** 23 October 2018

**Before:** Employment Judge Lewis

## **Representation**

**For the Claimant:** In person

**For the Respondent:** Mr V Patterson, Managing Director  
Mr R Shiani, Accountant

## **RESERVED JUDGMENT**

The claim for one week's notice pay is upheld. The respondent is ordered to pay the claimant the sum of £658.74.

## **REASONS**

1. This was a notice pay claim. I heard evidence from Mr Briah, Mr Paterson and Mr Shiani. I was given a small batch of documents.
2. Mr Briah originally brought claims for wages and notice pay. On 13 September 2018, he wrote to the tribunal to say he now only wished to continue with his claim for one week's notice. Unfortunately that letter was not copied to Patterson Construction Ltd. I apologised for this.
3. After some discussion, everyone agreed that the value of one week's notice pay was £658.74 net of tax. The argument was about whether Mr Briah was entitled to the pay.

4. Mr Briah started work for Patterson Construction on 30 April 2018 as a quantity surveyor. His annual salary was £45,000. He was given the use of a car. He was given a written contract of employment which said the first 13 weeks of the employment were probationary. During that time, he could resign or be dismissed on one week's written notice.

5. On 2 May 2018, Mr Briah emailed Mr Patterson. He asked for a £200 advance because the last company had not paid him his wages as he had left without working his one week's notice period to join Patterson Construction. He said he was struggling financially. The advance was agreed.

6. On 4 May 2018, Mr Briah emailed everyone on the team to thank them for making him feel welcome.

7. On 9 May 2018, Mr Briah came into work at 6 am as usual. During the early morning, Mr Paterson asked what he was doing. Mr Briah told him. Mr Paterson felt it should only have taken an hour, but Mr Briah had been working on it for three to three and a half days. He said, 'That's taking a long time'.

8. Mr Briah felt Mr Paterson had spoken rudely to him. He had already been thinking of resigning and that made up his mind. At 9.08 am he sent Mr Patterson this email:

'Morning Val,  
I feel that I have not had a good start with my new job at Patterson's, equally I feel that I'm not receiving the support that I thought I'd be getting.  
There are 1 or 2 other things but wont go into those for now.  
Please can you accept this as my 1 week notice and at the same time, I thank you for giving me an opportunity with Patterson's  
Best regards'

9. The reason Mr Briah gave one week's notice was that he had checked his contract of employment and had seen that was what was required.

10. Mr Briah then went into the kitchen to get a glass of water. According to him, Mr Paterson followed him in and was very annoyed. He says Mr Paterson said there was no point in him being there for the week and he might as well leave now. He says Mr Paterson did not ask him what the problem was and did not let him get a word in edgeways. He says he was told to hand in his possessions and leave.

11. Mr Patterson remembers it differently. He says he walked into the kitchen to get himself a coffee. He says he was not angry and that is not his nature. He says he told Mr Briah, 'If you have personal issues and you want to leave, you can leave'. He says Mr Briah then chose to leave.

12. Mr Patterson's accountant, Mr Shiani, said he had never seen Mr Patterson lose his temper. However, he did not witness this particular incident.

13. On 15 May 2018, Aileen Patterson sent Mr Briaah an email which asked, 'Can you confirm what actual work you carried out for us as we can't find documents/evidence that you completed any while you were in our office?'

14. Mr Briaah replied a few hours later. He said he had given the requested information over the telephone. He added, 'I will not be in a position to respond to any further emails or telephone calls as this stage as I have some important business to take care of'.

15. Mr Patterson says this letter is evidence that Mr Briaah had refused to come back and work his notice. But that is not what it says at all. Mr Briaah had not been asked to come back and work notice. He had been asked to give an explanation of what work he had been doing (or not doing) while employed. Also, this email was not sent until 15 May 2018, 6 days after the resignation.

16. It is not easy to decide exactly what happened in the conversation in the kitchen on 9 May 2018. On balance, I accept Mr Briaah's account. These are my reasons. There is a written document where Mr Briaah gives one week's notice. That is strong evidence of his intention to give and work the notice. The fact that he had not given notice in his previous job does not mean he would not give notice this time. Apart from anything else, he may have learned that failing to give notice leads to problems getting outstanding wages. Also he says he was on a self-employed arrangement in his previous job.

17. I find it hard to believe that Mr Patterson calmly went into the kitchen to get a coffee, just when Mr Briaah happened to be there, and just after he had received the written notice. He was already irritated with Mr Briaah that morning because of the length of time he was taking on some work. He then received a resignation by email even though Mr Briaah was in the same office. He went straight into the kitchen to catch him. I think it is highly likely that he was annoyed and told him to go immediately. This is even more likely if he was thinking that Mr Briaah was taking over three days on a task which should only have taken 1 hour. He accepts he did not try to discuss with Mr Patterson what the problem was. He showed no interest in trying to keep him.

18. Mr Briaah is therefore entitled to net pay for the one week notice period. The agreed value of that is £658.74.

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Employment Judge Lewis

Dated: 24 October 2018

Judgment and Reasons sent to the parties on:

26 October 2018

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For the Tribunal Office