

Tribunal clarifies employment status of Addison Lee drivers

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Employment analysis: Liana Wood, a solicitor in the employment department at Leigh Day, explains how the Employment Tribunal reached its decision that Addison Lee drivers were 'workers'. She advises lawyers to tell companies a tightly drafted contract may no longer provide the protection once thought, and possibly to monitor the interviews of chief executives that may touch upon worker status.

Who are the claimants in this case and what specific claims did they bring against Addison Lee in the Employment Tribunal?

The claimants were Michael Lange, Mark Morahan, and Mieczyslaw Olszewski. GMB Britain's general union, has campaigned against 'bogus self-employment' and so the case was that Addison Lee had incorrectly classified the drivers as independent contractors, when in fact they were workers. This means they are entitled to holiday pay and to receive the national minimum wage for all the time that they logged into the Addison Lee driver portal.

Claims were brought under:

- the Working Time Regulations 1998 (holiday pay)
- the [National Minimum Wage Act 1998](#)
- the National Minimum Wage Regulations 2015
- [section 13](#) of the Employment Rights Act 1996 ([ERA 1996](#)) (unlawful deduction from wages)

What were the key arguments run by the claimants in relation to their status as workers?

The main point was that Addison Lee wanted customers to view the drivers as Addison Lee drivers but, simultaneously, wanted to maintain that they were independent contractors for employment purposes. Addison Lee was also not helped by the fact that their contract did not contain a substitution clause—they had to perform the work personally. Their chief executive had also given an interview where he said that 'our employees are full-time professional drivers, and we recruit, vet and train them'.

Other indications that the claimants were workers included:

- a rigorous recruitment process
- training to a high level
- six-day weeks and long hours
- driving vehicles that were conspicuously branded as Addison Lee cars
- renting cars from Addison Lee (and not being able to use the car to work for other private hire operators)
- strict standards regarding dress codes and how the drivers provided their services
- the fact that as private hire drivers they could not accept bookings nor tout for business

What were the key arguments run by Addison Lee to say that the claimants are self-employed?

Addison Lee's main argument was that their contracts stated that the drivers were independent contractors, and that this agreement was not a sham.

Addison Lee also made many arguments that the drivers had flexibility (such as to work for other companies), but simply chose not to exercise these rights. Drivers were encouraged to work when demand was high, but they could not be required to do so. They also (unsuccessfully) argued that there was never any obligation on the drivers to perform work, even when logged into the driver portal. Another argument was that as there was no obligation to work, there was no need for any substitution clause.

What were the Employment Tribunal's findings on the employment status of the claimants? Which factors did the Tribunal refer to when reaching this decision?

The Tribunal (chaired by employment judge Pearl) held that the claimants were workers under [ERA 1996, s 230\(3\)\(b\)](#). They also found that there was an overarching contract for Addison Lee to provide work to the drivers (and not just contracts for each individual driving 'job'), and that the drivers were workers from when they logged onto Addison Lee's internal driver portal system.

Reference was made to the great level of control that Addison Lee exercised over the drivers—including:

- dress codes
- a script for contacting customers
- not playing music in the cars unless requested
- no conversations about ‘sex, politics, religion or anything controversial’
- how often the vehicle had to be serviced

The claimants’ evidence was described as ‘wholly rational’, while Addison Lee’s submission ‘defies evidential gravity’.

What are the next steps in this case?

The Tribunal still needs to decide:

- how annual leave should be calculated
- how the national minimum wage should be calculated—in particular, how to deal with deductions that may lead drivers to receive no pay in a pay reference week

How significant is this Employment Tribunal decision in the context of other recent decisions on employment status? What should lawyers be advising clients in response?

The significance of this decision is that the vast majority of worker status cases are being decided in the claimants’ favour at first instance. We will await the appellate decisions in Uber and Pimlico Plumbers to see if this approach is upheld by the higher courts. Lawyers’ advice to companies should probably be that a tightly drafted contract may no longer provide the protection once thought, and possibly to monitor the interviews of chief executives that may touch upon worker status.

Liana works on a range of discrimination and employment cases and multi-party equal pay cases in the civil courts and the Employment Tribunal. She has particular experience in sex discrimination, disability discrimination, whistleblowing, discrimination in relation to public services and data protection issues. She also has interest in discrimination relating to race, religion and political belief, the rights of individuals working as domestic servants in the UK and employment law in an international context.

Leigh Day represented the claimants at the Employment Tribunal.

Interviewed by Kate Beaumont.

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