



CitySprint: another case in the worker/contractor saga

The 'gig economy' has taken another hit following the recent judgment against CitySprint brought by a courier, Ms Dewhurst. The Claimant, a cycle courier who typically worked four days a week from 9:30am to 6:30pm, argued that she was a worker despite CitySprint's 'Confirmation of Tender to Supply Courier Services' agreement which explicitly described her as a self-employed contractor.

Despite CitySprint's carefully-worded contract, the Tribunal upheld the Claimant's claim that she was a worker during the time that she was logged into the tracking system as they did not believe the contract adequately reflected the work she carried out whilst on duty. For example, she wore a uniform, had to work when she said she would, was directed by a controller and was required to follow CitySprint's professional standards.

Furthermore, whilst in theory Ms Dewhurst had some autonomy over which deliveries she undertook, it was well-known amongst the couriers that rejecting work would result in being penalised and not getting any further work in the future. In light of this, the Tribunal held that, in practice, Ms Dewhurst could not be an independent contractor, and as such she was indeed an employee and therefore entitled to holiday pay.

Following the Uber judgement

<https://www.gqlittler.com/resources-centre/features/article-773-2016-12/what-does-the-uber-employment-tribunal-decision-mean-for-you> Dewhurst v CitySprint is indicative of a trend of claims relating to worker status in the gig economy. This is the first of four employment status cases in the London Central Employment Tribunal against courier companies with more surely to follow. What is clear is that the result of this case (like Uber) is fact-specific. Interestingly, Employment Tribunals are willing to look beyond contractual documents, and actually assess the practical reality of the work undertaken, if they see an apparent disconnect between the two.

Employment protection for "independent contractors" in the gig economy looks set to be a highly topical issue in employment law in 2017, with the government currently reviewing the employment practices of the gig economy.

