



## Worker status woes: Addison Lee loses appeal on status of drivers

By **Ben Smith** - 15 November 2018

In the latest in a long line of case law dealing with 'worker status', the Employment Appeal Tribunal (EAT) has rejected an appeal by Addison Lee against a decision by the Employment Tribunal that three Addison Lee private hire drivers were workers and therefore entitled to the minimum wage and holiday pay.

The EAT has approved the Tribunal's judgment. Most notably the EAT stated that the Tribunal was entitled to take a "realistic and worldly wise" approach to the facts – a phrase that will no doubt prove useful to courts in future cases dealing with worker status.

The private hire drivers are therefore, subject to any further appeals by Addison Lee, entitled to be paid the National Minimum Wage and to receive holiday pay. While strictly speaking this judgment only applies to the drivers who issued the claim, Addison Lee will no doubt face significant pressure from the rest of its workforce to reflect the judgment more widely.

Snappy language aside, this decision is not out of step with previous cases on this issue. Courts have shown they are willing to look behind the contracts to examine the 'reality' of the working relationship. It seems fair to say that courts are also becoming increasingly sceptical of how employers - particularly those working in the 'gig economy' - try to structure their business to ensure individuals are self-employed and not workers.

There are more developments in this area on the horizon. The outcome of Uber's appeal to the Court of Appeal is expected in early 2019. In addition, Government action to clarify the law is pending, though no substantive proposals have been put forward to date (as ever, Brexit continues to take up the majority of the government's attention, so any reforms may not materialise for quite some time).

You can read the full judgment in *Addison Lee Ltd v Lange & Ors* [2018] UKEAT 0037/18/1411 [here](#).