

Addison Lee Ltd v Lange and Ors

In another case exploring the fringes of the employment relationship in the “gig economy,” the UK Employment Appeal Tribunal (EAT) has held that three drivers for taxi company Addison Lee Ltd were “workers” for the purpose of the Working Time Regulations 1998, Employment Rights Act 1996 and the National Minimum Wage Act 1998. Further, the drivers were “working” for Addison Lee for the entire time they were logged onto a remote system that allocated them jobs (other than when they were on a break), meaning that they were entitled to be paid for this time and not only when they were carrying passengers. The judgment illustrates that a tribunal will examine how an employment relationship works in practice as opposed to simply relying on contractual terms. This means that attempts to structure working practices to avoid the application of workers’ rights are at greater risk of successful challenge.

Addison Lee is a private hire company that engaged drivers on a “Driver Contract,” the terms of which provided that the driver agreed he was an independent contractor (and not an employee) of Addison Lee. Each driver hired a vehicle from a company associated with Addison Lee and granted permission for payments in respect of this vehicle to be deducted from their earnings. When the drivers wanted to work, they would log onto a remote system which would allocate them jobs. They were expected to accept any assigned job and, if they did not accept, they had to provide an adequate reason for their failure to do so, or face possible sanctions.

The EAT found that it was appropriate to investigate allegations that the Driver Contract did not represent the actual terms agreed in a “realistic and worldly wise” manner. In doing so, it held that while certain obligations were not spelt out on either side within the Driver Contract, they clearly existed and, under such circumstances, the drivers were in fact “workers.” The EAT went on to find that being available for jobs when logged onto the remote system was an essential part of the service the drivers provided and time spent logged on was therefore “working time.”

“Workers” are entitled to holiday pay and the National Minimum wage and the decision

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could therefore have financial repercussions for companies who operate under a similar business model.

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