

In test case for gig economy, UK court backs contractor

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Former Pimlico Plumbers employee Gary Smith leaves the UK Supreme Court, Parliament Square, London, Wednesday, June 13, 2018. A London plumber who claimed he was unfairly dismissed after years of working as a contractor has won a court ruling giving him employment rights, in a case seen as a key test of labor rules in the so-called gig economy. Britain's Supreme Court upheld a ruling by a lower court saying that Gary Smith, who worked for Pimlico Plumbers full-time for six years, was entitled to rights such as sick pay. (Yui Mok/PA via AP)

A London plumber who claimed he was unfairly dismissed after years of working as a contractor won a court ruling Wednesday giving him employment rights, in a closely watched case testing labor rules in the so-called gig economy.

Britain's Supreme Court ruled that Gary Smith, who worked for Pimlico Plumbers full-time for six years, was entitled to rights such as sick pay and minimum wage. Smith sought to reduce his hours following a heart attack, while the company argued he wasn't entitled to such protection because he was a self-employed contractor.

His case will now return to an employment tribunal to sort out his unfair dismissal claim.

The case lays bare the many questions that remain in the ongoing debate about independent contractors in the gig economy, where people work job-to-job with little security and few employment rights.

Some companies have argued that the gig system provides lifestyle benefits for people who want flexibility, but the arrangements also allow companies to avoid many expenses associated with hiring full-time employees.

While the U.K. ruling will not apply to employees outside the country, it is part of a trend in which regulators are more closely scrutinizing the rights of workers at companies like Uber and app-based food delivery cyclists.

The ruling is notable for both setting the mood music for future discussions on the topic while insisting that really nothing has changed in the concept of "worker." It placed the case of Smith in the context of some 150 years of British labor law as to what a worker is and what rules and regulations apply to that status.

The case is important because the court upheld earlier rulings in a straightforward way, implying that the judges believe the principles were already understood, said Sean Nesbitt, a partner at the international law firm of Taylor Wessing, which is not involved in the case.

"They're just saying: We know what a worker is and we can see it from existing principles, and that's what we're applying," he said. "It's important that they are treating this as consolidating a trend."

The decision does not bode well for Uber, which is facing its own moment of reckoning before the Court of Appeal in October. The ride-hailing app is appealing an Employment Appeal Tribunal decision that ruled that the company's drivers are workers, not independent contractors, in a case that goes to the heart of the company's business model.

"People will treat it as a weather vane as to how the parties will contest the Uber appeal," Nesbitt said.

The ruling comes nearly a year after a major study by study by Matthew Taylor, a former adviser to Tony Blair, concluded that workers in the gig economy need greater labor protections.

The Taylor report concluded that a new category of [worker](#), the "dependent contractor," should be created to secure genuine flexibility for laborers. It also signaled a new norm among the workforce.

By one estimate there are some 1.1 million people in Britain's gig economy, almost as many as those who work in the National Health Service. A separate 2016 study, by the McKinsey Global Institute, suggested that some 26 percent of the U.K. workforce are independent or use independent work to supplement their income, roughly the same percentage as those in the United States.

With the workplace rapidly evolving, businesses are struggling to cope.

Mishcon de Reya employment partner Susannah Kintish, who represented Pimlico Plumbers, said that businesses are awaiting legislation on categorizing their workforces, as existing employment law is "rendered increasingly unfit for purpose."

"Individuals operating in the gig economy need certainty that they have been categorized correctly, and businesses are equally keen to get this right from the outset, recognizing that doing so is in their own interests," she said.

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