



Case Number: 2200246/2022

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EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr G E C Eguez

Respondents

1 Churchill Contract Services
Limited
2 Jones Lang Lasalle Limited

JUDGMENT

- 1 The claimant's claim against the second respondent has no reasonable prospect of success and is struck out.

REASONS

- 1 At a hearing on 8 April 2022 I made an order that the claimant should show cause why his claim against the second respondent should not be struck out as having no reasonable prospect of success.
- 2 I have considered the claimant's representations as set out in an email received on 29 April 2022. I have also considered the respondent's response to that submission in an email dated 12 May 2022.
- 3 I have concluded that the claimant's claim against the second respondent has no reasonable prospect of success and must be struck out. My reasons are as follows.
- 4 The claimant was employed by the first respondent as a supervising cleaner in offices managed by the second respondent and occupied, at least in part, by Facebook.
- 5 There is no suggestion in the pleadings or submissions that the contracts involving the parties to these proceedings are not entirely genuine and proper.
- 6 The claimant's claim is of automatic unfair dismissal, alternatively unlawful detriment, for trade union activities. Such claims, by definition, have to be brought against the claimants "employer". That was the first respondent.
- 7 The claimant is seeking to make a case against the second respondent on the basis of the decision in Royal Mail Group Ltd v. Jhuti [2019] UKSC 55. In that case the Supreme Court held that the improper motives of a manager within the employer could be attributed to the actual decision maker so as to render the decision unlawful.
- 8 In my view that argument is not open to the claimant in this case. He is seeking to invoke that principle so as to attribute the alleged reasons of the second respondent, of which there is no direct evidence at all, to the first respondent.

- 9 I accept that the claimant was dismissed by the first respondent following a request from the second respondent (understood to have been made as a consequence of complaints by the premises occupier) that he and a Manager be removed from this contract due to an alleged shortcoming in his standard of work.
- 10 The first respondent appears to have requested the second respondent to reconsider that request on more than one occasion, without success. The claimant was placed on gardening leave and offered other vacancies on other contracts within the first respondent's control, but did not accept any of them. It was a month later that the first respondent gave the claimant 6 weeks notice of termination, contingent on him not having accepted an alternative position. The claimant did not do so, did not appeal against the decision, and his employment terminated on 27 October 2021, albeit he had started new employment on 1 October 2021.
- 11 In light of the above background I find the claimant's claim against the second respondent to have no basis in law. The second respondent was not his employer and, whatever its motives were, there is no evidence that they were either improper or should be imputed to the first respondent.
- 12 It is also the case that it does not appear that the first respondent simply dismissed the claimant. It offered him alternative vacancies, which he declined, and its reasons for dismissing him appear to be clearly founded on his refusal to consider alternative employment, rather than for any reasons that may or may not have existed in the minds of third parties.

Employment Judge Kurrein
1 June 2022

Sent to the parties
04/06/2022

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For the Tribunal office