



EMPLOYMENT TRIBUNALS

BETWEEN: Mr P Zieniewicz
Mr M Zieniewicz
Claimants

and

Solsbury Solutions Ltd

Respondent

JUDGMENT

These claims are struck out on the ground that they have no reasonable prospect of success.

REASONS

1. These claims are of unfair dismissal.
2. At a Preliminary Hearing for case management on 21 April 2020 the Tribunal discussed with the parties the various issues raised by the claims. The Respondent denies that the Claimants were ever their employees or that, if they were, they have the two years' continuous employment they need to qualify for the right to complain of unfair dismissal. Even if the Claimants are or were the Respondent's employees, if their claims are to succeed they will need to establish that they were dismissed by the Respondent (Section 95 of the Employment Rights Act 1996). Dismissal includes where a Respondent terminates a Claimant's contract, whether with or without notice (Section 95(1)(a)).
3. The Respondent is an employment agency that places temporary workers on assignments for its various clients. One of its clients is Next Distribution Limited. The Respondent placed the Claimants to work as warehouse operatives for Next at its Distribution Centre in South Elmsall. At the Preliminary Hearing, the Claimants confirmed that their work contracts were with the Respondent. The substance of their

complaint was that the Respondent had told them that they could no longer offer them work at Next.

The Claimants viewed that as amounting to the Respondent unfairly

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dismissing them. They confirmed, however, that the Respondent had not told them that it would no longer find work for them, and they accepted that the Respondent had subsequently offered them assignments at another client (Symphony) which they had refused because they wanted to go back to work at Next.

4. At the Preliminary Hearing the Tribunal made an Order stating that it was considering using its powers under Rules 37 and 39 of its Rules of Procedure to strike out the claims or order the Claimants to pay a deposit as a precondition of continuing with them, on the ground that the Claimants appeared to have no or little reasonable chance of establishing that they had been dismissed. The Tribunal gave the Claimants until 8 May 2020 to provide any comments they wanted to make about whether the Tribunal should strike out their claims or, if they wanted the opportunity to make their comments at a Hearing, state that fact. The Respondent was ordered to provide the Tribunal with copies of all the parties' witness statements.
5. On 8 May 2020 the Claimants wrote to the Tribunal asking to change their claims from unfair dismissal claims to "detriment" claims. That application was refused because they did not identify any unlawful ground for the detriment of which they were complaining. They made various comments on the Respondent's witness statements but did not deny that they had been offered further work after being told that work was no longer available for them at Next. They simply said that the Respondent's reasons for not allowing them to work at Next were not true. They did not request a Hearing.
6. The Tribunal is satisfied that the Claimants have no reasonable prospect of establishing that the Respondent has terminated their contracts, even if those contracts are employment contracts. They have no evidence that the Respondent did anything other than inform them that work assignments were no longer available for them at Next. It took no steps to terminate the work relationship it had with them. As the Claimants have no reasonable prospect of establishing that they were dismissed, their unfair dismissal claims have no reasonable prospect of success.
7. For these reasons, the claims are struck out.

Case Nos. 1807544/2019
1807546/2019
(P)

Date: 11 May 2020