



EMPLOYMENT TRIBUNALS

Claimant: Mr M Kler

Respondents: 1. Desap Enterprises Limited
2. Sunbelt Rentals Limited
3. Ilyas Isik

Heard at: Manchester (remotely, by CVP)

On: 8 November 2021

Before: Employment Judge Whittaker

REPRESENTATION:

Claimant: In person
1st Respondent: Mr R Archbold (Director)
2nd Respondent: In person
3rd Respondent: Ms Nowell of Counsel

JUDGMENT

The second respondent, Sunbelt Rentals Limited, is dismissed as a respondent to any of the claims of discrimination which have been accepted by the Tribunal and which are set out as an Annex to the written case summary of the preliminary hearing which was held by video on 8 November 2021.

REASONS

1. Following detailed and lengthy discussion with the claimant today, he was very clear in conceding that the second respondent was never at any time his employer; he had never been issued with any contract of employment, and it was clear that he fully understood that at all times the first respondent was his employer and that his connection and involvement with the second respondent only arose as a result of a commercial contract between the first respondent and the second respondent for the provision of outsourced IT services on the part of the second respondent to the first respondent.

2. Equally there was no evidence at all to show that the claimant was a contractor of the second respondent pursuant to section 41 of the Equality Act 2010.

Indeed, again after lengthy and detailed discussion with the claimant, he agreed that there were no circumstances to establish the relationship of contractor between the claimant and the second respondent. He was very clearly at all times an employee of the first respondent and he was engaged by the first respondent under the terms of a written contract of employment. The claimant's association with the second respondent was only as a result of working on the IT systems and infrastructure of the second respondent under the terms of a commercial contract between the second and first respondent.

3. On the basis that it was not possible for the claimant to establish any basis on which the second respondent could in any way be found to have discriminated against the claimant or to be held liable for any acts of discrimination on the part of either the first or third respondent, then the second respondent was dismissed as a respondent from these proceedings.

Employment Judge Whittaker

Date: 17th November 2021

JUDGMENT AND REASONS SENT TO THE PARTIES ON

22 November 2021

FOR THE TRIBUNAL OFFICE

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.