



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr I Fitzgerald

AND

Respondents

1. Teacher Active Limited
2. RACS Collective Limited
3. The Insolvency Service

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT Birmingham **ON** 6 and 7 August 2018

EMPLOYMENT JUDGE Dimbylow

MEMBERS Mrs G Sheldon
Dr GC Hammersley

Representation

For the claimant: In person

For the first respondent: Mr W Lane, Solicitor

For the second and third respondents: not present or represented

JUDGMENT

The unanimous decision of the tribunal is that:

1. The tribunal declares that pursuant to the Agency Workers Regulations 2010: the claimant was an agency worker, the first respondent was a temporary work agency, and Solihull College was a hirer in a tripartite agreement.
2. The tribunal declares that the claimant's claim, that as an agency worker, he was entitled to the same terms and conditions of employment after 12 weeks' qualifying period as would apply as if he had been recruited into the same job by the hirer, specifically over annual leave, is well-founded; and succeeds against the first respondent.
3. The claim against the second respondent is not well-founded, fails and is dismissed.

4. The claim against the third respondent is not well-founded, fails and is dismissed.

5. The claimant's claim for compensation and any other remedy issues are adjourned until 10am on Monday 1 October 2018. The parties shall arrive by no later than 9.45am. The case will be heard by the same tribunal with a time estimate of 1 day.

6. The first respondent is ordered to obtain from the hirer a copy of the comparator's contract of employment and forward a copy to the claimant and the tribunal by 4pm on 21 August 2018 and bring 3 further copies to the adjourned hearing. The comparator is a Part-time (0.6), Permanent, GCSE English & Functional Skills Lecturer, employed by the hirer.

Employment Judge Dimbylow
08 August 2018