



EMPLOYMENT TRIBUNALS

Claimant: Mr S Dale
Respondent: Integrated Cleaning Management Limited

AT A PRELIMINARY HEARING

Heard at: Leeds **On:** 19th February 2019
Before: Employment Judge Lancaster

Representation

Claimant: In person
Respondent: Mr A Joicey (Compass Group)

JUDGMENT

1. For the avoidance of doubt, and BY CONSENT, the correct Respondent is Integrated Cleaning Management Limited and Compass Group UK & Ireland and Integrated Cleaning Management Support Services Limited are dismissed from these proceedings.
2. Any entitlement to a bonus did not come to an end simply by reason of the Respondent producing an offer of fresh Written Particulars of Employment in January 2016, which offer was never unqualifiedly accepted in writing by the Claimant. There was no termination by mutual agreement of any contract providing for bonus payments: whether or not there was in fact any such a continuing contractual (as opposed to discretionary) entitlement at any time after the last such payment was made in about 2012, and, if so, whether or not the Claimant had at any time thereafter acquiesced in the variation of such a provision is a matter for the final hearing.
3. Even if there had been a termination of an earlier contract in January 2016 there was never at that time an “effective date of termination” as defined by section 97 of the Employment Rights Act 1996. Under Article 7 (b) of the Employment Tribunals Extension of Jurisdiction (England & Wales) Order 1994 time did not begin to run from that date but only, as continuity of employment was preserved, from “the last day upon which the employee worked in the employment which has terminated” which is 2nd February 2018.
4. Even if time did begin to run in January 2016 I am satisfied that it was not reasonably practicable for the Claimant to have brought this claim whilst still employed, which as commonly understood would have precluded him bringing a contract claim in the

Case: 1806079/2018

Employment Tribunal, and it was brought within a reasonable time after the effective date of termination of employment.

5. The case will therefore proceed to a final hearing. This will be listed for 2 days at Sheffield on 9th and 10th May 2019. Any additional documents must be disclosed by 8th March 2019 and any additional or amended witness statements must be mutually exchanged by 22nd March 2019.

EMPLOYMENT JUDGE LANCASTER

DATE 19th February 2019

JUDGMENT SENT TO THE PARTIES ON

5 March 2019

AND ENTERED IN THE REGISTER

FOR SECRETARY OF THE TRIBUNALS

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless 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.