



EMPLOYMENT TRIBUNALS

Claimant: Mr A Takpi-Young

Respondents: (1) Aviva Plc
(2) Sanderson Recruitment Plc
(3) Sanderson Managed Services Limited

Heard at: Croydon **On:** 6 December 2022

Before: Employment Judge Barker

Representatives

For the claimant: In person

For the respondents: Mr Welch, counsel (for R1)
Mr Lawrence, counsel (for R2 and R3)

JUDGMENT

The claimant's claim for damages for breach of contract fails and is dismissed against all three respondents.

REASONS

1. The claimant claims damages for breach of contract of two weeks pay payable on termination of his engagement.
2. The claimant was a contractor, providing services to the first respondent via a series of contracts. The contractual chain was comprised of the claimant who contracted with an umbrella company (Umbrella Company Limited), which umbrella company contracted with the third respondent. The third respondent has a contractual relationship with the first respondent. It is accepted by the Tribunal that the second respondent was not party to any of the contracts between the respondents and/or the claimant.
3. The Tribunal finds no evidence of a direct contractual relationship between the claimant and any of the respondents to these proceedings. It is also, (as per *James v Greenwich Borough Council*), not necessary on the evidence and submissions

before the Tribunal to imply a direct contractual relationship between the claimant and any of the respondents. The claimant accepts that he was a contractor.

4. The terms of engagement of the claimant (contained in agreements between Umbrella Company Limited and R3 before the Tribunal, and accepted by the claimant in his submissions to the Tribunal) contain an agreement that R1 will place contractors on “furlough” for four weeks during the Christmas period, during which contractors such as the claimant are not paid. The claimant accepted that he had no expectation of receiving pay during this furlough period, had his engagement continued.
5. Although the claimant told the Tribunal that there were occasions when a contractor was called off furlough and asked to work (and therefore would be paid), he accepted that there was no evidence that this would have happened to him on the occasion to which these proceedings relate.
6. The claimant was given notice to terminate his engagement, which notice period coincided with the Christmas furlough period. Although the claimant was initially led to understand that he would be paid for his notice period and was told to submit timesheets in order to achieve this, no payment was made to him. It is this miscommunication that understandably led the claimant to believe that he was entitled to be paid during his notice period.
7. However, even if the claimant had managed to persuade the Tribunal that he had a direct contractual relationship with R1 or R3, the terms of his engagement were such that no money was payable to him on termination. Compensation for breach of contract is payable on the basis of what a claimant would have been paid during the notice period. As the notice period fell during the furlough period, no pay was payable to the claimant in those weeks in any event.

Employment Judge Barker

Date _____ 6 December 2022