



EMPLOYMENT TRIBUNALS

Claimant: Mr Carl Howton

Respondent: Route One Group

RECORD OF A HEARING

Heard at: Bury St Edmunds, in public, by video

On: 12 November 2024

Before: Employment Judge Boyes

Appearances

For the Claimant: In person

For the Respondent: Mr T. Pichler Transport Manager; Mr N. Claringbold, Operations Director

JUDGMENT

The Judgment of the Tribunal is as follows:

The Unfair Dismissal claim is struck out because the Claimant was employed by the Respondent for less than two years and so does not have a right to bring an Unfair Dismissal claim.

REASONS

1. The Claimant was employed by the Respondent as a warehouse operative from the 10 April 2022 to 22 November 2023. Prior to the commencement of his employment with the Respondent, he worked for the Respondent via an agency for around two months.
2. Having been suspended for two weeks following an alleged incident involving the Claimant and his line manager, in which the Respondent asserts that the Claimant's behaviour was inappropriate, the Claimant was dismissed for misconduct. The Claimant believes that he was treated unfairly because he had not been subject to disciplinary proceedings previously and because the dismissal procedure was unfair.
3. The Tribunal wrote to the Claimant on the 18 March 2023 to warn him that his claim may be struck out because he did not have the requisite qualifying service to bring a claim for Unfair Dismissal unless any of the exceptions to section 108 Employment Rights Act 1996 applied in his case. He was given the opportunity to explain why his claim should not be struck out. He was given until the 25 March

2024 to reply. At the hearing, I asked the Claimant if he replied to that letter. He said that he recalled that there was some correspondence but was unsure if he had replied. I have since looked at a copy of the paper file and can find no reply from the Claimant.

4. On the 18 March 2024, the Tribunal wrote to the Respondent to inform it that it did not need to enter a response at that stage. It is not entirely clear from the digital documents before me, but it appears that on the same date the Tribunal also directed that the Respondent file a response. No response was submitted by the Respondent.
5. On the 31 July 2024, an Employment Judge directed that the case be listed for a remedy hearing and that the Claimant provide a calculation of his loss and supporting documents by the 28 August 2024. It is on that basis that the case came before me for a hearing.
6. The Claimant explained that he had thought that his claim was not going to proceed because of the two year qualifying service requirement, so he was surprised when he received the notice of a remedy hearing.
7. Prior to the hearing I had been provided with some digital documents. However, I did not have the paper file before me at the hearing. I therefore clarified the reasons why the Claimant complains of Unfair Dismissal. Having done so, on the basis of what was before me, I was satisfied that none of the exceptions to the two year qualifying service requirement applied in this case. I indicated to the parties that, subject consideration of the paper file once I receive it, I am minded to strike out the claim. However, if, after having considered the paper file, I decide that it is not appropriate to strike out the claim, I will issue directions as to the future conduct of the case.
8. Having received a copy of the paper file subsequent to the hearing, I am satisfied that the claim should be struck out for the following reasons:
 - (i) The claim raises a single complaint of Unfair Dismissal.
 - (ii) The Claimant was not continuously employed for two years ending with the effective date of termination.
 - (iii) Section 108(1) of the Employment Rights Act 1996 places a limit on the rights of employees to bring a claim of Unfair Dismissal. As a general rule, employees have no right to bring such a claim unless they were continuously employed for two years ending with the effective date of termination. There are exceptions to that rule. None of the exceptions appear to apply in this case.
 - (iv) The claim is therefore struck out.

Employment Judge Boyes

Date: 25 November 2024

Sent to The Parties On: 19/12/2024

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