



EMPLOYMENT TRIBUNALS

Claimant

Mr Mark Richard Reid

v

Respondent

Nayati Cooking Limited

(in liquidation)

PRELIMINARY HEARING

Heard at: Hull

On: 10 July 2019

Before:

Employment Judge Shulman

Appearance:

For the Claimant:

In person

For the Respondent:

Did not appear, was not represented and did not file a response.

JUDGMENT

The respondent shall pay to the claimant a redundancy payment in the sum of £1,524.00

REASONS

1. **Claim**

This is a claim for a redundancy payment.

2. **Respondent**

The correct title of the respondent is Nayati Cooking Limited (in liquidation). The Liquidators are AJ Nichols and John Butler of Redman Nichols Butler of The Chapel, Bridge Street, Driffield, YO25 6DA. The correct title of the claimant is Mark Richard Reid.

3. **The Issue**

The sole issue in this case is whether the claimant is entitled to a redundancy payment from the respondent.

4. **The Law**

The Tribunal has had regard to the following provisions of the Employment Rights Act 1996 (ERA).

- 4.1. Section 139(2) which provides that for the purposes of subsection 1 [which relates to the claimant's rights to a redundancy payment] the business of the employer together with the business or businesses of his associated employers shall be treated as one.
- 4.2. Section 231 which provides that for the purposes of ERA any two employers shall be treated as associated if - (b) both are companies of which a third person (directly or indirectly) has control; and "*associated employer*" shall be construed accordingly.

5. Facts

The Tribunal having carefully reviewed all the evidence (both oral and documentary) before it finds the following facts (proved on the balance of probabilities):

- 5.1. The claimant was born on 22 January 1965 and at the effective date of his termination was 53 years of age.
- 5.2. The claimant commenced employment with a company called Counterability Limited on 12 September 2012. This company manufactured equipment for supermarkets. He was employed as either an Operations Manager or Director until the effective date of termination. In September 2016 Counterability Limited went into liquidation without assets. This company was wholly owned by Alison Joseph, the sister-in-law of a man called Mark Campey.
- 5.3. The claimant immediately became employed by a company called Broughco Limited who acquired none of the assets (there were none) of Counterability Limited. Broughco Limited was a service and maintenance company for kitchens and catering in the hotel trade. This company was wholly owned by Mark Campey.
- 5.4. In December 2017 Broughco Limited went into liquidation. The claimant immediately worked for a newly formed company which is the respondent, which was also wholly owned by Mark Campey. That company imported heavy duty catering equipment, no assets passed from Broughco to the respondent.
- 5.5. From September 2016 until 31 December 2018 the claimant worked for companies wholly owned by Mark Campey, namely Broughco Limited and the respondent.

6. Determination of the issues

After listening to the factual and legal submissions made by and on behalf of the claimant:

- 6.1. At the effective date of termination the claimant was redundant.
- 6.2. The Tribunal finds that Counterability was not an associated employer of the respondent.
- 6.3. Because the respondent and Broughco Limited were wholly owned by Mark Campey the Tribunal finds that those two companies were associated employed.

- 6.4. In the circumstances the claimant is entitled to a redundancy payment covering the period from September 2016 until 31 December 2018, namely 2 years.
- 6.5. The claimant is entitled to a redundancy payment in the sum of £1,524 made up as follows:
- Weeks' pay £508
 - Age at effective date of termination 53 years
 - Service 2 years
 - Statutory multiplier 1.5
 - Total £1,524

Employment Judge Shulman

Date: 19 July 2019

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