



EMPLOYMENT TRIBUNALS

Claimant: Mr O Sanodze

Respondent: New Recruits Professional Services Ltd

PRELIMINARY HEARING

Heard at: Reading (in private) **On:** 2 August 2019

Before: Employment Judge Gumbiti-Zimuto (sitting alone)

Appearances

For the Claimant: In person

For the Respondent: Ms S Chan of Counsel

JUDGMENT

The Employment Tribunal does not have any jurisdiction to consider the Claimant's complaints.

REASONS

1. In a claim form presented on 9 March 2018, the Claimant presented a complaint against New Recruits Professional Services Ltd. New Recruits Professional Services Ltd is an agency that assigned the Claimant to work with a company called Rudolph and Hellman. The Claimant was assigned to work with Rudolph and Hellman from 2 November 2017 to 5 January 2018. On the Claimant's assignment with Rudolph and Hellman being terminated, the Claimant has sought to make a complaint against New Recruits Professional Services Ltd. In section 8 of the ET1 claim form, the Claimant has ticked the box which reads:

"I am making another type of claim which the Employment Tribunal can deal with."

In the box underneath, he has included the following text:

"I have lost job and since then two months have been asking why I have lost it. It is the second time in six months I am unemployed after losing my contract in

2017 June. I have asked repeatedly why I have lost the job which I was doing very well. No answer yet.”

2. At section 8.2 of the claim form which requires the Claimant to set out the background and details of his claim, the Claimant has set out information which includes the following:

“This is my third claim at the ET. The first was Sanodze v Chris Hayter (Transport) Ltd. I was unable to submit the claim due to the death of my wife’s father. We had to leave the country, attend funerals. I am thinking of reapplying that case if necessary.

The second one is Sanodze v People Solutions Group Ltd, case number 33284/2017 [sic] It will be discussed by ET on the 3rd April at noon in Reading.

Now I am trying to find out true reasons behind me losing a job and the whole saga which is continuing around me last 8-9 months.

I am trying to establish what employers are doing to me and why?

I repeat I have asked New Recruits Professional Ltd to what was the reason behind the fact that I have lost the job?

When I have spoken with one of their top managers (same Sam he did not say surname) he was perfectly right to state that employment agency has no duty to find me a job or worry whether I am employed or not.

I totally agree but in the light of all going around me – employers are not hiring me, my education is not needed by employers, I am losing jobs I need to know – Why have I lost a job which I was doing and was traveling [sic] 21 miles one way to do it - always on time.

There is confusion. My direct employer – an employment agency, New Recruits Professional Services Ltd – put me to do the job for the company which was serving Mini plant in Oxford. The name is Rudolph Hellman Automotive Oxford.

Between these two companies, there is a truth uncovered why I have lost my job.

I have left grievance notes to look at and stated that I was the part who was mistreated. Was asking to let me know the outcome of investigation - no answer till now, over two months now.

Instead, I have received contradicting text messages which completely confuse me and being unemployed for so long and having two little ones and partially disable [sic] wife I must ask the question.

What is going on around me and what or who is really to blame in all these sagas.

I am sorry that I need to take your time again but I am afraid it might not be the last time, because another employer denied me a good opportunity, basing judgment that I do not have skills and experience.

Over 15 years of my work experience I have never felt that I was letting down my workmates or any business by doing less than others or lacked any intellectual or academic development.

Many thanks and my apologies that I could not manage myself to sort things out.

I did try though.

Ota Sanodze”

3. The Respondent's position is that other than perhaps identifying a complaint that the Respondent has failed to provide him with written reasons of his dismissal, the Claimant has not identified any justiciable claim in the Employment Tribunal. At this preliminary hearing, I asked the Claimant who appears in person what his claim was about; what it is he wanted to complain of.
4. The Claimant began by explaining that there was an incident involving a security guard at his place of work. He was refused entry to work after he travelled some 21 miles in order to get to work. This incident led to the Claimant's having to complain to New Recruits Professional Services Ltd about the way he was treated and also appears to have resulted in the Claimant being told that his assignment at Rudolph and Hellman was ended. The Claimant explained that he complains against New Recruits Professional Services Ltd because they have not provided him with an explanation of the reasons for his dismissal from his role with Rudolph and Hellman; that they failed to consider the grievance that he made in relation to the problems that he had at Rudolph and Hellman; that the Claimant was not paid in respect of any notice period; and that the Respondent failed to provide him with a safe and secure environment to work in,
5. The matters about notice period and providing a safe and secure environment to work in simply do not appear in the Claimant's claim form. In any event, from the Claimant's account and also from the response, it is clear that the Claimant was not dismissed from the employment of New Recruits Professional Services Ltd at the time that his claim was presented. The Claimant continued to be on the books of the agency until 11 July. The Claimant was not dismissed by New Recruits Professional Services Ltd so as to give rise to a claim for notice pay at the time that the claim was made. The Claimant's claim in that regard therefore is unsustainable. In any event, such a claim has not been made on the claim form.
6. The claim form does not explicitly make a complaint about grievances but does appear to indicate that the Claimant has made attempts to find out the reasons for not being provided with employment at Rudolph and Hellman.

7. Section 92 of the Employment Rights Act 1996 appears to me to provide the only potentially justiciable claim that arises from a consideration of the Claimant's claim form. Section 92 provides that:

“(1) An employee is entitled to be provided by his employer with a written statement giving particulars of the reasons for the employee's dismissal

(a) If the employee is given by the employer notice of termination of his contract of employment;

(b) If the employee's contract of employment is terminated by the employer without notice; or

(c) If the employee is employed under a limited term contract and the contract terminates by virtue of the limiting event without being renewed under the same contract.”

(2) Subject to subsections 4 and 4a, an employee is entitled to a written statement under this section only if he makes a request for one and a statement shall be provided within 14 days of such a request.”

“(3) Subject to subsections (4) and (4A), an employee is not entitled to a written statement under this section unless on the effective date of termination he has been, or will have been, continuously employed for a period of not less than two years ending with that date.”

8. Subsections (4) relates to pregnancy and maternity leave. Subsection (4A) relates to adoption leave.
9. A number of points can be made about the Claimant's case having regard to section 92. The Claimant was not dismissed at the relevant time. The Claimant has not been continuously employed for a period of not less than two years ending with the date on which his assignment was brought to an end. Subsections (4) and (4A) do not apply to the Claimant's case.
10. The Claimant's complaint insofar as it is made under section 92 of the Employment Rights Act 1996 has no prospect of success. I am satisfied the claim is doomed to fail and therefore the complaint is struck out.
11. The effect of that is there is no justiciable claim remaining. The Claimant's complaints in claim number 3304651/2018 are struck out pursuant to rule 37 of the Employment Tribunals Rules of Procedure on the grounds that it has no reasonable prospect of success.

Employment Judge Gumbiti-Zimuto

Date: 23 August 2019

Sent to the parties on:30th August 2019

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