



EMPLOYMENT TRIBUNALS

Claimant
Mr Richard Riley

Respondent
Rente Limited

v

Heard at: Watford

On: 27 January 2020

Before: Employment Judge Foxwell

Appearances

For the Claimant: In person

For the Respondent: Mr R Daniel – Contracts Manager

JUDGMENT

1. The Claimant's claim for damages for breach of contract is not well-founded and is dismissed.

REASONS

1. The Claimant, Mr Richard Riley, presented a complaint of breach of contract to the Tribunal on 6 April 2019 having gone through early conciliation between 29 March and 5 April 2019. He claimed damages for wrongful dismissal, comprising pay for the notice period under the contract and additional compensation for what he describes as consequential losses, on the basis that the Respondent had failed to honour a contract of employment.
2. To decide the claim, I heard the Claimant's account of events, which was confirmed by Mr Daniel, a contracts manager who works for the Respondent. Mr Daniel told me, and I accept, that he has the authority of the Respondent to represent it in these proceedings. I looked at relevant emails exchanged by the parties on the Claimant's phone (Mr Riley said that he had submitted hard copies to the Tribunal some months previously but they had not found their way to the file; Mr Daniel saw, and confirmed, that the emails I was shown were the ones sent at the time).
3. The issues that I have had to consider are as follows: firstly, was there a contract at all? If the answer to this question is 'no' then the claim must be

dismissed. If, on the other hand, the answer is 'yes' it will be necessary for me to consider what the relevant notice period under the contract was, whether any termination of the contract was in breach of that provision and whether the Claimant was entitled to further damages for breach of contract.

4. After discussing the issues with the parties, it was agreed that I would deal with the first question first, namely whether there was a contract at all. This is principally an issue of law flowing from the facts which were not in dispute. The relevant context is this: on 19 March 2019 an officer of the Respondent emailed the Claimant offering him a job. The email identified the role and rate of pay and concluded with the words that if this was acceptable to the Claimant then the Respondent could "*get everything rolling*": I find that this was an invitation to the Claimant to consider whether he was willing to enter into a contract of employment. The Claimant replied that day, saying that he was "*eager and excited to come aboard*". Joe Knowles of the Respondent acknowledged this email on 20 March 2019, saying that he would get the contract sorted and sent over. The Respondent sent a draft contract to the Claimant on 21 March 2019. All of this took place electronically by email.
5. On 22 March 2019, having had an opportunity to go through the contract, the Claimant expressed concerns to Mr Knowles about clauses relating to intellectual property. I have no doubt that the Claimant had legitimate concerns and, in due course, the Respondent had its own legitimate view about whether these were appropriate clauses or not. That disagreement, however, is not relevant to the formation of the contract but to the reason why the contract, or the proposed contract, was never implemented.
6. Mr Knowles considered the Claimant's objections to the proposed terms and in an email conversation on Friday, 22 March 2019 gave him reassurances about how the clauses were likely to be interpreted by the Respondent in the future. The Claimant considered this over the weekend and at 11:33 on the morning of 25 March 2019, he emailed to say that he had been unable to sign the electronic version of the contract as he had hoped and he asked the Respondent to re-send it to him. His email also contained a copy of his driving licence and bank details.
7. The Respondent did not re-send the contract to the Claimant for signature: in fact, after a wait of some hours, at 17:31 that evening Mr Knowles emailed the Claimant withdrawing what he said was an offer of employment. At that stage the Claimant had printed off the contract and he subsequently signed it and provided it to the Respondent in hard copy on 26 March 2019. He told me that he had not posted the hard copy prior to receipt of the email sent at 17:31 on 25 March 2019. Mr Daniel confirmed that a signed contract was received on the 26 March 2019, but after the withdrawal of what the Respondent terms "an offer".
8. The first question for me is whether the exchange of emails on 19 March 2019 constitutes an offer and acceptance amounting to a concluded contract of employment? I do not find on the evidence that it does. In my judgment, this was correspondence preliminary to agreeing the terms of a

contract of employment and was not itself intended by the parties to create legal relations as a formal contract of employment would do. While it is not always necessary for there to be a formal written contract of employment, there are indicators in this case which lead me to conclude that this was the parties' intention. Firstly, Mr Knowles uses the expression "we can get everything rolling" in his email of 19 March 2019. He talks about getting a contract sorted and sent over. Secondly, this was a responsible role attracting a salary of £40,000 per annum and one where the parties clearly contemplated formal written terms. Thirdly, written terms were sent and the Claimant raised legitimate concerns about agreeing to them.

9. I find on the evidence that the Claimant was willing to accept the Respondent's terms by the morning of 25 March 2019 but for there to be an effective acceptance of an electronic communication, in this case a contract requiring to be electronically signed, the message needs to have been received by the other party to the contract (see, for example, Entores Limited v Miles Far East Corporation [1955] 2 QB 327). This is in contrast to the postal rule under which a contract is deemed to be accepted as soon as a written contract is placed in a post box: that is not what happened here.
10. So, acceptance could only take place electronically where a signed contract was in fact received by the Respondent. Whether it was deliberate or not (I simply do not know), the Claimant's attempt to send a signed electronic version of the contract on the Monday morning was unsuccessful and it was, therefore, not sent. I find therefore there was no concluded contract when the Respondent withdrew its offer later that day. This result flows from the legal principles relating to offer and acceptance and is nothing to do with the good faith of the parties before me (which I have no reason to doubt). It also says nothing about the very understandable frustration and disappointment the Claimant felt.
11. As I have found that there was no concluded contract, the right to notice pay under a contract or the possibility of damages for other consequential losses does not arise. Accordingly, the claim is dismissed.

Employment Judge Foxwell

Date: 29 January 2020.....

Sent to the parties on:

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For the Tribunal Office