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EMPLOYMENT TRIBUNALS

Claimant: Mr R Patel

Respondent: Nauman Khan, Faisal Ali, Yasin Khan,
AK9 and FM Solutions Ltd

Heard at: East London Hearing Centre (by Cloud Video Platform)

On: 24 September 2021

Before: Regional Employment Judge Taylor

Appearances

For the claimant: In person

For the respondent: Mr Simon Fenton, Solicitor

JUDGMENT ON AN APPLICATION FOR INTERIM RELIEF

The claimant's application for interim relief is not well founded and is dismissed.

REASONS

1. The claimant presented a claim to the employment tribunal on 29 July 2021 in which he indicated that he was making a very urgent interim relief application. The claim form did not set out details of the application but referred to 'whistleblowing and Covid 19'. The claimant had made a timely application for interim relief and therefore the application was listed for hearing.

2. The claimant represented himself at this hearing. The respondents were represented by Mr Simon Fenton, solicitor. Mr Fenton had prepared a skeleton argument on behalf of the respondents received by the tribunal and the claimant on 23 September 2021.

3. The claimant was employed by the respondent, AK9 and FM Solutions Ltd, a security company that has contracts with the government to deal with security matters. He was engaged as a Quarantine Operative from 2 June 2021 until 28 July 2021 and his duties consisted of visiting individuals who were quarantining. The claimant explained that the respondents are Faisal Ali, Director; Mr Nauman Khan employed as HR Director, Mr Yasin Khan, a temporary employee who carried out HR and other duties.

4. Types of claim where interim relief can be made include where the claimant has made one or more qualifying disclosures as defined in section 43B of the Employment Rights Act 1996. The claimant must have written or communicated to his employer alleging one of the five alternative categories of information that may amount to a qualifying disclosure.

5. The claimant was asked to give the tribunal details of his allegation that he was dismissed for making a qualifying disclosure. The claimant accepted that his claim form did not provide any details of such allegations. The claimant went on to describe circumstances of events that he said occurred on 19 June 2021, when he went to the Days Inn Hotel , Leicester Forest Motorway Services on his first visit and visited a person he was required to check was correctly quarantining as part of his duties. He followed the person to the hotel room to check their identification papers and passport. This person told him that their two young children were sick with a high temperature and they did not have ventilation in the room. The claimant called an ambulance for the family because he was not sure whether the children had symptoms of Covid-19. He reported the family circumstances and the incident to the respondent at its office. Secondly, the claimant made an allegation of less favourable treatment because of his ill-health that took place after he was dismissed. The details of the second allegation is not repeated here because it could not have formed a qualifying disclosure.

6. The respondent submitted that it is necessary for the claimant to make out his case in respect of each of the relevant elements necessary to show that he made a qualifying disclosure that was protected. Even after being given plenty of time to address this at this hearing the claimant had not met the threshold, which is a high one, to establish that he is entitled to interim relief.

The Tribunal's conclusion

7. Under section 129 (1) of the Employment Rights Act 1996 interim relief may only be granted where it appears to the tribunal that it is likely that the Tribunal will find that the reason or principal reason for dismissal is that the employee made a protected disclosure (section 103A).

8. The claim form does set out any details of the claimant having given any information to the respondent that could amount to a protected disclosure. Having considered the claimant's submissions, the Tribunal concluded that the claimant had not made out a claim of public interest disclosure dismissal and was not entitled to be granted an application for interim relief.

9. Therefore, the application for interim relief was dismissed.

Costs application

10. The respondent submitted that the claimant entire application for interim relief had no prospect of success and had been a complete waste of time. The respondent put the claimant on notice that it intended to make an application to the tribunal to make an award of costs against him, for him to pay the costs for the preparation of and time spent at this hearing. Such application will be made on the conclusion of these proceedings.

Regional Employment Judge Taylor

24 September 2021