

Cases: 1803864/2020 &
1803895/2020



EMPLOYMENT TRIBUNALS

Claimant: L Porter
Respondents: 1. Kingdom Services Group Limited
2. Coral Solutions Limited
3. aAFD Limited

AT A HEARING

Heard at: Leeds, partly by CVP video link **On:** 23rd, 24th, 25th, 26th and
27th August 2021

Before: Employment Judge Lancaster
Members: H Brown
N Arshad-Mather

Representation

Claimant: Mr P Kerfoot, counsel
Respondents: 1. Mr B Udeje, counsel
2 & 3. Mr D Welch, counsel

AMENDED **JUDGMENT**

1. The claim against the First Respondent under case 1803864/2020 and/or 1803895/2020 for failure to inform or consult under regulations 13 and 15 of TUPE Regulations 2006 is dismissed.
2. The reference under sections 11 and 12 of the Employment Rights Act 1996 as against the First Respondent is out of time, and is dismissed.
3. The reference under sections 11 and 12 of the Employment Rights Act 1996 as against the Second Respondent is out of time, and is dismissed. In any event there was necessarily never any agreement between the parties as to the terms of a contract which is a retrospective imputation in law only, such that the Tribunal might have been able to determine the particulars which ought to have been included in a statement of written terms and conditions of employment.

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4. The claim for unfair dismissal and/or automatically unfair dismissal against the Second Respondent was not presented in time when it would have been reasonably practicable to have done so and is dismissed.
5. An identifiable and separate part of the Claimant's contract transferred to the Second Respondent on 1st April 2020 under regulation 3 (1) (b) (ii) of TUPE Regulations 2006.
6. The Claimant was dismissed by reason of redundancy by the Second Respondent who is therefore ordered to pay him a statutory redundancy payment in the sum of £1034.46 (9 weeks' pay), which is calculated as follows:

A week's pay 14 hours @ £8.21 per hour (9 ½ hours cleaning plus allocated ¾ hours daily travelling between Malham and Clapham, 4 ½ hours)

10 years continuous employment between 8th February 2010 and 1st April 2020 for 8 of which he was not below the age of 22 years.

7. An identifiable and separate part of the Claimant's contract would have transferred to the ***Third*** Respondent on 1st April 2020 under regulation 3 (1) (b) (ii) of TUPE Regulations 2006 had there not been a mutual agreement that it would not do so and/or simultaneously to terminate any such transferred contract of employment. The reference under sections 11 and 12 of the Employment Rights Act 1996 is therefore dismissed.
8. The Claimant was not dismissed and any claims against the Third Respondent for unfair dismissal and/or automatically unfair dismissal, or for a redundancy payment are not well-founded.

EMPLOYMENT JUDGE LANCASTER

DATE 28th September 2021