



EMPLOYMENT TRIBUNALS

Claimant: Mr A Elsayed
Represented by Ms K Yakoob (Friend)

Respondents: (1) Mr I Zeineldar (2) Alsafa (Lon) Ltd
Represented by Mr B Malik (Counsel)

2201733/19

Heard on: 8 October 2021, London Central Employment Tribunal by CVP video platform.

Employment Judge: Mr D A Pearl

JUDGMENT

The tribunal makes the following Judgment:

1 These claims are all struck out against both Respondents as having no reasonable prospect of success

REASONS

1 The parties all agreed that the hearing should proceed in the absence of an interpreter for the First Respondent, who is represented, and who instructs counsel that the matter should proceed. I would also refer to Mr Malik's summary of what has happened in this case in his Note of 27 September. This is very helpful.

2 This is an application for strike out or for deposit orders. The Respondent maintains that the further information that was ordered has not been provided by the Claimant. Ms Yakoob maintains that a 'Claimant's bundle' was sent as hard copy to the tribunal. I do not have this and nor does the Respondent, as it was not copied or sent to them. In the circumstances, I am satisfied that I should proceed, not least because Ms Yakoob has referred to nothing in that bundle that could defeat the submission (and my conclusion) that these claims have no

reasonable prospect of success; and should be struck out. The claim is inherently unsustainable.

3 This is reflected in the ET1 itself with the narrative attached. It is evident that the Claimant was involved in a business venture over a period of time and has sought to recover expenses he says he incurred, before he and his main partner, the First Respondent, fell out. In addition, he claims wages for 3.5 weeks up to 4 April 2019. For such claims, the Claimant must have been either an employee of either of the respondents, alternatively a worker, as defined.

4 He cannot establish a contract of employment. His involvement began in March 2018, as appears from his witness statement, which is the key reference document. Mr Malik correctly says that it has never been made clear which of the Respondents was the employer. In any event, the discussions were about a business project: "it was my business plan with his investment ..." Three claims for expenses relate to March to May 2018 and these are clearly at a time when the Claimant could not possibly have been an employee or worker. That disposes of these claims, leaving aside the statutory exclusion from the right to wages of expenses.

5 Thereafter, the Claimant says he "negotiated back and forth for over 4/5 months." He could not work full time in the bakery until 20 February 2019. He gives no evidence of any agreement for work at this point. On 4 April 2019 he went to the business premises "to take a look myself." The meeting was, in his words, to get registered within the business and start working full time. That was his hope, but the First Respondent would not sign a draft contract that the Claimant produced; and then gave the Claimant two draft contracts of his own which the Claimant would not sign. They then argued and the project or scheme was dropped. The Claimant refers to compensation for "time and money wasted" on the basis of an unparticularised alleged oral agreement.

6 It is clear that there was no agreement for the provision of personal services or work, or any employment contract. The 3 claims for expenses in 2018 and also for April 2019 fail for the reasons given above. The claim for 3.5 weeks wages in 2019 as a worker or employee fails as there was no agreement for the same. The discrimination claims (based on one alleged comment on 8 April 2019) fail as the Claimant lacks status as an employee in the extended sense or as a contract worker. Therefore, all these claims must be struck out.

7 The Respondents applied for costs but I considered that, given the tangled procedural history, it would be inequitable to make an order on the basis of unreasonable behaviour in bringing the claim, when a default judgment had been granted and then had to be set aside.

Employment Judge Pearl

Date:11/10/2021

JUDGMENT & RESERVED REASONS SENT TO

THE PARTIES ON

11/10/2021.

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THE TRIBUNAL OFFICE

FOR