



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4102658/2019

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Held in Glasgow on 11 September 2019

Employment Judge L Doherty

10 **Mr J Walsh**

**Claimant
Represented by:
Mrs A Walsh -
Wife**

15 **Brunswick Street Cate Limited (Dissolved)**

**First Respondent
Represented by:
Mr A Maxwell -
Solicitor**

20 **Michael Johnson**

**Second Respondent
- see above**

25 **Stephen Flannery**

**Third Respondent
- see above**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

35 The judgement of the Employment Tribunal is;

1. the claim against the second named respondents is dismissed;
2. the claim against the third named respondents is dismissed;
3. the claim against the first named respondent is sisted until 11th December 2019.

E.T. Z4 (WR)

REASONS

1. This was a Preliminary Hearing (PH) to consider the issue of the identity of the claimant's employer. The claimant was represented by Mrs Walsh, and all the respondents, by Mr Maxwell, solicitor.
- 5 2. The claimant presented a claim on 23 February 2019 seeking a redundancy payment and damages for breach of contract. The claimant was resisted, and one of the issues which emerged was the identity of the claimant's employer. It was the second and third respondents' position that they were not the claimant's employer, and that he was employed by the first respondent.
- 10 3. Ultimately, after considerable procedure, this PH was fixed to determine the issue of identity of employer.
4. At the outset of the hearing, Mrs Walsh, appearing for the claimant, was able to confirm that the claimant accepted that he was not employed by the second or third named respondents, and that his employer was the first named
15 respondent. Mrs Walsh explained that the second and third named respondents were included in the ET1, only on the advice of ACAS.
5. It was Mr Maxwell application that the claim against the second and third named respondents should be dismissed. Given the claimant's position, the Tribunal was satisfied that the claim should be dismissed against the second
20 and third named respondents, and a judgement is issued that effect.
6. It appears that that first named respondents have dissolved and are no longer on the Company Register. The effect if this is that the claim cannot continue against them.
7. The Tribunal was satisfied however at this stage that it was consistent with
25 the overriding objective in the Tribunal Rules to sist claim against the first respondent for a period of 3 months to allow the claimant to make investigations with the Secretary of State as to whether they will be in a position to deal the claim. This claim was intimated to the Secretary of State in July of this year; he confirmed that he did not wish to be considered as an
30 interested party.

8. The claimant should confirm if he intends to make an application for any further Tribunal procedure against the first respondent by 11 December 2019. The Tribunal will thereafter consider further procedure, including the dismissal of the claim against the first respondents.

Employment Judge: Laura Doherty
Date of Judgment: 11 September 2019
Entered in register: 13 September 2019
and copied to parties