



EMPLOYMENT TRIBUNALS

Claimant: Mr P Klicner

Respondent: Guarding UK Limited

Heard at: Midlands West

On: 11 April, 12 April, 22 September and 23 September 2022

Before: Employment Judge Faulkner
Ms S Ray
Mr A Moosa

Representation: **Claimant** - in person
Respondent - Mr G Pollitt (Counsel)

JUDGMENT

1. The Respondent did not at the relevant times employ a full-time worker comparable to the Claimant within the meaning of regulation 2 of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 (“the PTW Regulations”).

2. It did not in any event subject the Claimant to a detriment or treat him less favourably than it treated a comparable full-time worker on the ground that the Claimant was a part-time worker in either of the following respects:

2.1. Not placing the Claimant on furlough under the Coronavirus Job Retention Scheme, between 22 April and 31 December 2020.

2.2. Failing to offer the Claimant at least 30 hours’ work per week during the same period.

3. Furthermore, not placing the Claimant on furlough as above was justified on objective grounds.

4. The Respondent did not subject the Claimant to a detriment in any of the following respects:

4.1. After his line manager changed in 2018, offering him shifts at short notice.

4.2. From 2018, offering him work at sites outside of Birmingham city centre without the Claimant requesting such work.

4.3. Not placing him on furlough.

5. In any event, the Claimant did not do an act falling within regulation 7(3)(a)(v) of the PTW Regulations at a meeting with his line manager in December 2019.

6. Furthermore, the Respondent's acts or failures to act did not contravene regulation 7(2) of the PTW Regulations because they were not because it believed or suspected that the Claimant had done an act falling within regulation 7(3)(a)(v) of the PTW Regulations.

7. The Respondent did not subject the Claimant to a detriment in either of the following respects:

7.1. Not permitting him to take more annual leave than he had accrued on 11 and 12 June 2019.

7.2. Not permitting him to submit requests for annual leave in March 2019, March 2020 or March 2021, thus requiring him to carry over annual leave to the following holiday year.

8. In any event, whilst the Claimant's previous complaint to the employment tribunal submitted on 9 May 2018 fell within section 45A(1)(e) of the Employment Rights Act 1996 ("ERA"), the Respondent's acts or failures to act did not contravene section 45A(1) of the ERA because they were not on the ground that the Claimant had brought those proceedings.

9. Furthermore, the Tribunal did not have jurisdiction to hear the complaints of breach of section 45A ERA because they were brought out of time and it was reasonably practicable to bring them in time.

10. The Claimant did not make a protected disclosure in bringing his previous complaint to the employment tribunal on 9 May 2018.

11. In any event, the Respondent did not subject the Claimant to a detriment in either of the following respects:

11.1. Creating unequal opportunities for him from June 2018 by having him work on a casual assignment by assignment basis.

11.2. Subjecting him to a hostile environment in discussions with his line manager in June, November and December 2019 respectively.

12. Furthermore, the Respondent's acts or failures to act did not contravene section 47B ERA because they were not on the ground that the Claimant had made a protected disclosure.

13. Further still, the Tribunal had no jurisdiction to hear the complaints of breach of section 47B ERA related to the Claimant's discussions with his line manager in 2019 because they were brought out of time and it was reasonably practicable to bring them in time.

14. The Respondent did not dismiss the Claimant for a reason set out in section 101A or 103A of the ERA. Accordingly, the Claimant was not unfairly dismissed.

15. In summary, none of the Claimant's complaints are well-founded. They are dismissed.

Employment Judge Faulkner
Date: 4 October 2022