



EMPLOYMENT TRIBUNALS

Claimant: Mr M Jaabouk

Respondent: Arriva the Shires Limited

Heard at: By video

On: 17 January 2024

Before: Employment Judge Danvers

REPRESENTATION:

Claimant: In person

Respondent: Mrs Mosley-Ford, In House Solicitor

PRELIMINARY HEARING IN PUBLIC JUDGMENT

The judgment of the Tribunal is as follows:

Amendment

1. The Claimant is given permission to amend his claim to include the following allegations:

Direct race discrimination (s.13 Equality Act 2010):

- a. Acting by Luke Gilroy and/or Ashley Sinclair, in or around August 2020, failed to afford the Claimant an opportunity to apply for the role of store person, giving the role instead to Rufus Newbury without adhering to an open and transparent recruitment process;

- b. Acting by Luke Gilroy, in or around September 2020, failed to afford the Claimant an opportunity to apply for six duty manager and relief duty manager roles, giving the roles instead to William Jordan, Reece Johnson, Syed Gilani, Peter Archer, Ashley Bradbury and Adam Jones without adhering to an open and transparent recruitment process;
- c. Acting by Luke Gilroy, in autumn 2020, failed to fund an additional mentoring session for the Claimant around the issue of emotional intelligence;
- d. Acting by Roxanne Gould and/or Patricia Winter, Ashley Sinclair, in or around February 2021, failed to intervene or advocate on behalf of the Claimant after he had been suspended from his employment;

Harassment related to race (s.26 Equality Act 2010):

- e. On or around 27 February 2019, Sam Hubbard threw a completed form back at the Claimant when the Claimant showed him the form in the context of a career progression discussion;
- f. In or around April 2019, John Mahomy refused to explain his comments in the interview above and refused to say if someone was spreading rumours about the Claimant;
- g. In or around December 2019, Paul Russell ignored the Claimant when he came into the Milton Keynes depot on his rest day in order to sit behind the dispatch desk to gain relevant experience;
- h. On or around 20 August 2020, Luke Gilroy emailed the Claimant to say the vacancy of store person was longer available when in fact Rufus Newbury had been appointed to the job;

Victimisation (s.27 Equality Act 2010):

- i. On the Claimant's return from a five week suspension which started on 24 February 2021, Richard Mason requested the Claimant produce his emergency tickets for inspection (the Claimant alleges these were normally checked every six months and had been checked by William Jordan 2-3 weeks prior to his suspension);
- j. On 6 September 2022, Jonathan Evans and Charlie Costin of the Respondent's management colluded with Collum O'Kane and other members of the recognised union to impede the Claimant's departure from work so that the latter could harass and intimidate him.

2. The Claimant's application to include the following allegation is refused: *Harassment related to race (s.26 Equality Act 2010)* On an unspecified date in 2020, Jonathan Evans informed the Claimant that he knew nothing about his application for the role of duty manager.
3. It will be for the Employment Tribunal at the final hearing to determine whether the above claims were brought in time.

Strike out

4. The following allegations of direct race discrimination (s.13 Equality Act 2010) are struck out under Employment Tribunal Rule 37(1)(a) because there is no reasonable prospect of them being found to have been brought within the period of 3 months starting with the date of the act or in such other period as the employment tribunal thinks just and equitable and, therefore, they have no reasonable prospect of success:
 - a. Acting by Mr Martin Minolti, in August 2016, the Respondent failed to progress the Claimant's application for employment as a trainee bus driver;
 - b. Acting by Mr Minolti, in September 2016, the Respondent failed to add the Claimant's name to its mailing list to alert him to any future recruitment opportunities for trainee bus drivers.

Employment Judge Danvers

24 January 2024

Judgment sent to the parties on:

6/2/2024

For the Tribunal:

N Gotecha

Note

Reasons for the judgment were given orally at the hearing. Written reasons will not be provided unless a party asked for them at the hearing or a party makes a written request within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

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