



EMPLOYMENT TRIBUNALS

Claimant: Mr O Chiromo

Respondents: (1) Citibank NA
(2) Morgan McKinley Group Limited

Heard at: East London Hearing Centre (in private, by video)

On: 11 March 2024

Before: Employment Judge Moor

Representation

Claimant: in person
First Respondent: Mr A McIntyre, solicitor
Second Respondent: Mr P Lappin, consultant

REASONS

1. The Claimant has requested written reasons of the judgment sent to the parties on 12 March 2024.
2. I refer also to the Preliminary Hearing Summary sent on the same day. I understand from the appeal grounds that the Claimant will also need my reasons for rejecting his application that the First Respondent's response should have been automatically rejected.
3. The Claimant withdraw his claims against the Second Respondent.
4. The Claimant withdrew his claim for Unfair Dismissal.
5. If a claim is withdrawn then no further reasons need to be given.

Breach of contract/wrongful dismissal

6. The claims for wrongful dismissal and breach of contract depended upon the Claimant's status as an employee. As set out in the Preliminary hearing Summary I explained carefully to the Claimant the limit of the Tribunal's powers: the Claimant could only bring a breach of contract case before a Tribunal, rather than the county court, if he was an employee. I referred to and read it the Extension of Jurisdiction Order to ensure that this was correct. I explained in lay terms the difference between the status of worker

and employee. I made clear it was up to the Claimant what his case was and he was very clear that he was not an employee. I understood the Claimant to have received legal advice about this. I took time to make sure what his claim about his status was. If there had been any doubt at all I would not have dismissed this claim. But the Claimant was clear.

Presentation of the ET3

7. I rejected the Claimant's argument that the Respondent's response should have been automatically dismissed because it was not in the body of the ET3 form.
8. Rule 12(1) of the Tribunal Rules requires a respondent to respond using the prescribed form, known as the ET3 form. I decided that the First Respondent had presented its response on an ET3 because it had presented this form, provided the mandatory information on it, as marked by an asterisk: the name, address and whether it contested the claim and referred to its full response by way of an attachment. It was reasonable and acceptable for the Respondent to set out its full response in an attached document. I decided that the claim should not have therefore been automatically rejected: the First Respondent had complied with the Rules.

Time Limit Point

9. I exercised my discretion to decide the time limit point at an earlier hearing because that might have a potential time saving for the Tribunal if the claim was brought out of time and it would save both parties some time in preparing the full evidence on wages. The Claimant's points on time can be made at that hearing.

**Employment Judge Moor
Dated: 16 April 2024**