



EMPLOYMENT TRIBUNALS

Claimant: Ms G Ursuleanu

Respondents: 1. Vicars Cross Healthcare Limited
2. ~~Vicars Cross Pharmacy~~
3. Arthur Brighton
4. Dale Michael Rae
5. Sally Turnbull
6. Nicholas James Goodwin

Heard at: Manchester (remotely, by CVP)

On: 20 June 2024

Before: Employment Judge K M Ross

REPRESENTATION:

Claimant: In person
1st & 6th Respondents: Mr Hendley, Consultant
3rd Respondent: Self-represented
4th & 5th Respondents: Did not attend

JUDGMENT AT PRELIMINARY HEARING

The judgment of the Tribunal is that:

Potentially Liable Respondents under Equality Act 2010.

1. There is no dispute that Respondent 6, Nicholas James Goodwin is an employee of Respondent 1, Vicars Cross Healthcare Limited and accordingly Respondent 1 will be liable under section 109 of the Equality Act 2010 for any alleged acts of discrimination, harassment or victimisation committed by R6.
2. I find that Respondent 4, Dale Michael Rae meets the definition of “employee” under section 109(1) Equality Act 2010 because he was engaged under a contract to do work personally, and accordingly Respondent 1 will be liable under section 109 of the Equality Act 2010 for any alleged acts of discrimination, harassment or victimisation committed by R4.

3. In the alternative, if I am wrong about my judgment in paragraph 2 above, I find that Respondent 1 is liable under section 109(2) Equality Act 2010 for the acts of respondent 4, Dale Michael Rae, because I find R4 was an agent acting under the principal's (R1) authority.
4. I find Respondent 4 and Respondent 6 are potentially personally liable under section 110 of the Equality Act 2010 for any alleged act of discrimination, harassment or victimisation as an employee or agent.

Potential Liability of R4 for the claimant's claim of public interest disclosure detriment "whistleblowing".

5. I find Respondent 4 (who is alleged to have subjected the claimant to detriment for making protected disclosures) is liable for any such act of alleged detriment under section 47B(1A) Employment Rights Act 1996 as a worker, applying the extended definition of that term in section 43K by reason of section 47B(3), or as agent of the first Respondent. Therefore Respondent 1 will be liable for the actions of R4 under section 47B(1B) ERA 1996.
6. I find the alleged qualifying disclosures made to respondent 4 (Dale Michael Rae) on 25 February 2023 and 25 March 2023 were made to the "claimant's employer" and so a protected disclosure under section 43C1(a) Employment Rights Act 1996. For the purposes of deciding this issue only it was assumed that the disclosures were a qualifying disclosure. This does not amount to a finding that they were qualifying disclosures and that issue is to be determined at the final hearing.

Potential Liability of R3 and R5 under Equality Act 2010 and Employment Rights Act 1996 for the claimant's claim of public interest disclosure detriment claim "whistleblowing".

7. I find Respondent 3 and Respondent 5 are purely volunteers and do not meet the relevant definitions under s109 and s110 Equality Act 2010 or the definition of worker under s43K ERA 1996 above, and accordingly the Tribunal does not have jurisdiction to hear legal claims against them. Accordingly they are struck out as respondents to this case.

Employment Judge K M Ross

Date: 3 July 2024

JUDGMENT SENT TO THE PARTIES ON
15 July 2024

FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>