



## EMPLOYMENT TRIBUNALS

**Claimant** Dr P Lennox

**Represented by** In person

**Respondent** Intsol Solutions Ltd

**Observer for Respondent** Ms Emilia Toffis

**Employment Judge** Ms A Stewart (sitting alone)

Held at: London South (Croydon) by CVP on: 16 September 2024

## JUDGEMENT

1 The Claimant is disabled within the meaning of section 6 Equality Act 2010.

2 The Claimant's complaint under section 27 Equality Act 2010 that he was victimised by not being given work assignments between 27 December 2022 and 23 January 2023, is well founded and succeeds.

3 Accordingly, it is ordered that the Respondent pay to the Claimant the following sums:

- (i) £2,940.00 net in lost wages and allowances;
  - (ii) £9,000.00 injury to feelings;
  - (iii) £720.00 interest at 8%;
- Totalling: £12,660.00.**

Signed: Employment Judge A Stewart

**Employment Judge**

Date 16 September 2024



## EMPLOYMENT TRIBUNALS

**Claimant** Dr P Lennox  
**Respondent** Intsol Solutions Ltd

### REASONS

#### Conduct of the Hearing:

1 The Response was struck out by a Tribunal Judgment dated 12 September 2024, for persistent failure to comply with Tribunal Orders. Paragraph 3 of that Judgment ordered that today's full merits hearing go ahead, although the Respondent had asked for a postponement on 10 September 2024. Ms Toffis, an employee of the Respondent, attended today as an observer only. She said that she had no knowledge of this case and did not seek to act as a representative.

2 Accordingly, the Claimant's claim stands undefended today. The Tribunal had regard to the Claimant's evidence, given under oath, and to the various documents before it, to which the Claimant himself referred, including his disability Impact Statement, the contents of the Respondent's ET3 and a draft statement of Mr Savva Antoniou, the director of the Respondent. The Tribunal also tested the Claimant's evidence in some depth by way of questioning.

#### The Claims and Issues

3 The Claimant brings a claim of disability discrimination victimisation, by his claim form presented on 27 February 2023. There was a PH for case management on 14 February 2024, which summarised that his complaint was that the Respondent had subjected him to the detriment of not giving him bus driving assignments between 27 December 2022 and 23 January 2023 because he had done the protected act of presenting a previous disability discrimination complaint (number 2304912/2022) to the Tribunal, regarding the non-payment of relocation subsidy. This was settled via ACAS.

4 The PH CM Orders of 14 February 2024 defined the issues for determination at today's hearing to be as follows: Whether or not the Claimant was to be regarded as disabled within the terms of section **6 Equality Act 2010**; whether or not the Claimant had been victimised within the meaning of **section 27 of the Act**, namely that he was subjected to a detriment because he had

done a protected act, in this case bringing proceedings under the Equality Act and, if so, to consider remedy.

### The Facts

5 The Claimant for 2 periods (28/9/2021 to 17/12/2021 and 11 April 2022 to 27 December 2022) was placed as a bus driver by the Respondent company with various bus companies (about 5) which required drivers, including with Abellio from August to December 2022.

6 During December 2022 his previous ET claim (2304912/2022) was presented to the Tribunal, naming both the Respondent and Abellio. The Claimant says that this was sent to the Respondents on 27 December 2022. It does not appear to be in dispute that this constituted a 'protected act' for the purposes of **section 27 Equality Act 2010**. The Claimant further asserts that he subsequently threatened the Respondent with further ET claims for victimisation and discrimination.

7 On 19 December 2022, there was an incident involving the Claimant's bus and a member of the public, whilst driving for Abellio, which is the subject of lively and unresolved factual dispute. The Respondent in its ET3 says that the reason for not placing the Claimant in a driving assignment was performance and conduct issues during 5 driving assignments over 15 months. The Claimant strongly denies the Respondent's version of events.

8 On 29 December 2022 Abellio emailed the Respondent terminating the Claimant's engagement with them as a bus driver.

7 On 6 January 2023, the Respondent offered the Claimant further immediate work as a driver, subject to the standard drink/drugs clearance test, but this offer was withdrawn on 10 January 2023. The Claimant says that this was the result of his 'protected act' and therefore being labelled a 'trouble maker' and not because of the incident with a member of the public, about which he says that Abellio's accusations were not valid and regarding which the Respondent has refused to seek and/or reveal CCTV and documentary evidence. The Claimant contends that the Respondent itself did not really believe Abellio's accusations because if it had, it would never, given its own scrupulous vetting procedures, have offered him further work on 6 January 2023. He also states that he has never received an answer to his question to the Respondent asking why his offer of work was withdrawn and, that if there was a legitimate reason, the Respondent would have said what it was. He says that he must have passed the vetting procedures and then the Respondent, with Abellio, probably realised they had made a mistake in offering work to the 'troublemaker' who had made an ET Claim and had threatened further action.

8 The Claimant has suffered from Generalised Anxiety Disorder, with the attendant physical manifestations of chronic urticaria and severe rosacea of the skin since the traumatic death of his wife in 2009. He has been on 2 forms of medication since that time and his 2 attempts to come off medication have resulted in such severe regression in all of his conditions that he has had no

choice but to resume them both. He says that the Respondent's treatment of him has caused him very considerable hurt and upset.

## Conclusions

9 Disability: On the basis of the Claimant's evidence, which the Tribunal found credible, and his Impact Statement, the Tribunal concluded that he suffers from GAD, a mental impairment, with attendant physical outworkings, which has lasted from 2009 to date, and continuing, and which has a substantial adverse effect on his ability to carry out normal day to day activities. Without his prescribed medications, he would be unable to function in terms of daily activities of self-care, social interactions or dealing with normal day to day activities. He is accordingly to be regarded as disabled within the meaning of **section 6 Equality Act 2010**.

10 As to his victimisation complaint: the chronology of events is open to the possibility of either the protected act or the incident at Abellio being causative of the withdrawal of the Claimant's work offer on 10 January 2023, or indeed of there being some other (unknown) cause. The Respondent has not replied to the Claimant's requests for a reason and has shown itself peculiarly reluctant to disclose materials in this case, despite repeated Tribunal orders to so.

11 On the basis of the evidence and materials before the Tribunal today, the Tribunal concluded, on a balance of probabilities, that the Claimant's protected act(s) in bringing and in threatening further Tribunal complaints alleging disability discrimination, were at least substantively causative of the Respondent's decision to withdraw its work offer made on 6 January 2023, because:

(i) It seems inherently unlikely that it would have made a job offer on 6 January 2023 at all, after having received Abellio's complaint/report of the December incident, had the Respondent believed/had credible evidence that the Claimant's conduct was dangerous/a risk to the public. The Claimant states that the Respondent's vetting procedures are required to be, and are, very scrupulous and thorough.

(ii) The Respondent has refused to tell the Claimant why the job offer was withdrawn. It is inherently unlikely that the Respondent would refuse to give a straightforward answer setting out the safety/conduct reason, if this were the real operative reason for the withdrawal of the work offer. These matters were only set out in the ET3 and in more detail in the draft statement (in June 2024) of Mr Antoniou.

12 The Claimant's complaint of victimisation under **section 27 Equality Act 2010** accordingly succeeds.

13 Quantum: The Tribunal accepted the Claimant's evidence of 4 weeks net loss of income (£2,400.00) and allowances (£540.00) and found appropriate

the Claimant's assessment of his injury to feelings towards the top of the lower Vento band (for less serious cases) at £9,000.00, plus his calculation of interest.

14 The Judgment for sums payable to the Claimant is accordingly given.

Signed: Employment Judge A Stewart

**Employment Judge**

Date 17 September 2024