



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms A Farooq

**Respondent:** Mr T Torrington

**Heard at:** Watford Tribunal (by CVP)      **On:** 4 November 2024

**Before:** Employment Judge Cowen

## Representation

**Claimant:** Ms Farooq (in person from UAE)

**Respondent:** Ms B Davies (counsel)

**JUDGMENT** having been given orally on 4 November 2024 to the parties and reasons having been requested the same day in accordance with Rule 62(3) of the Rules of Procedure 2013, the following reasons are provided:

# REASONS

## Introduction

1. The parties provided a bundle of documents and a bundle of witness statements for this hearing. Both parties provided written submissions and the Respondent also provided a bundle of authorities.
2. Prior to starting to hear the issues of whether the Tribunal had International Jurisdiction and Territorial Jurisdiction of the Equality Act 2010, it was established that the Claimant was in the United Arab Emirates which is not a country with which the UK has an agreement to allow evidence to be given in UK courts and Tribunals. The Tribunal was therefore not able to take live evidence from the Claimant, nor from Mr Torrington, as he too was in the UAE.
3. The Tribunal was able to read their witness statements and take them into account, albeit with less weight attributed to them, due to the fact that they had not been tested under oath.

## Findings of Relevant Facts

4. The Tribunal found the following relevant facts;
5. The Claimant was a teacher at the Al Karamah school in Abu Dhabi, a school which specialises in education for children on the autism spectrum. She was employed by Al Karamah School Sole Proprietorship LLC. (as set out on her contract). The Claimant herself was diagnosed as autistic and her claim is in relation to discrimination she alleges that occurred. She was dismissed from her

job on 12 January 2024.

6. The Claimant obtained an EC certificate covering the period 25 January 2024 to 14 February 2024 prior to issuing her claim. The EC certificate was in the name of Aspris (Priority), giving an address in Church Street West, Woking.
7. The Claimant issued her ET1 on 14 February 2024. She listed the Respondent as Trevor Torrington, who was the CEO of a company called Aspris in the UK from September 2021 to mid September 2024. The Claimant has not applied to amend her ET1 to include a company name as the Respondent and therefore the only Respondent considered for the purposes of this application is Trevor Torrington.
8. The Tribunal accepted that the Department of Education and Knowledge ('ADEK') is the department of the UAE Government which owns the Al Karamah School and pays a contract fee for the running of the school. Aspris Education Services Sole Proprietorship LLC ('Aspris LLC') is a UAE company which runs the school under that contract. Aspris LLC is in turn owned by Aspris Education HoldCo Limited, which is part of a larger group of companies known as Aspris Middle East Group ('The Group'). The Respondent is now the CEO of the Group.
9. The Tribunal also accepted, that Mr Torrington commenced employment as the CEO of The Group on 17 January 2024. He moved to the UAE on 15 January 2024, in order to take up the role. Prior to this he had been CEO of Aspris in the UK.

### **Submissions**

10. The Respondent submitted via Ms Davies that the Tribunal must follow the authority of *Stena Drilling PTE Ltd v Smith [2024] EAT 57*, a case decided earlier this year by Lord Fairley in the EAT in Scotland, which stated that the only route for cases to be heard in the Tribunal in the UK about matters occurring abroad, in relation to their individual contracts was via the Civil Jurisdiction and Judgments Act 1982 s.15C. This applies for any cases where the contract of employment started after 31 Dec 2020. This therefore includes the Claimant's case.
11. It was submitted on behalf of the Respondent that the Tribunal had no international jurisdiction to hear the claim against the Respondent due to the fact that Mr Torrington was not domiciled in the UK at the time proceedings were commenced.
12. In addition the Respondent also submitted that if the Respondent in this case were a company, it would be as named on the Claimant's contract of employment, i.e Al Karamah School Sole Proprietorship LLC. The Respondent said that is a UAE registered company. It was also submitted that just because there is a UK company further up the ownership structure does not give a close enough connection to warrant a claim in the UK.
13. The Claimant submitted that Mr Torrington remains listed on UK Companies House in respect of Aspris Children's Services Limited and his country of residence is listed as England.
14. The Claimant directed the Tribunal to a letter dated 22 August 2023 which said that the Claimant was employed by the Al Karamah School. It is said to be 'operated by' a company which appears on Companies House as a UK company, i.e. Aspris Childrens services Ltd with a UK registered head office.

15. The Claimant also referred to Aspris Holdco Ltd and Mr Torrington's position as CEO and Director of that company. The Claimant did not suggest a clear link between Mr Torrington and Aspris Children's Services.
16. The Claimant also referred to the fact that ADEK, the regulator of schools in the UAE is not the owner of the school, but is the sponsor of the school. There was no evidence to support this, nor to assist with the impact this would have on whether the Claimant could pursue a claim against Mr Torrington.

## **The Law**

### **Civil Jurisdiction and Judgments Act 1982**

#### **s.15C Jurisdiction in relation to individual contracts of employment CJJA 1982**

*(1) This section applies in relation to proceedings whose subject-matter is a matter relating to an individual contract of employment.*

*(2) The employer may be sued by the employee—*

*(a) where the employer is domiciled in the United Kingdom, in the courts for the part of the United Kingdom in which the employer is domiciled,*

*(b) in the courts for the place in the United Kingdom where or from where the employee habitually carries out the employee's work or last did so (regardless of the domicile of the employer), or*

*(c) if the employee does not or did not habitually carry out the employee's work in any one part of the United Kingdom or any one overseas country, in the courts for the place in the United Kingdom where the business which engaged the employee is or was situated (regardless of the domicile of the employer).*

*(3) If the employee is domiciled in the United Kingdom, the employer may only sue the employee in the part of the United Kingdom in which the employee is domiciled (regardless of the domicile of the employer).*

*(4) Subsections (2) and (3) are subject to rule 11 of Schedule 4 (and rule 14 of Schedule 4 has effect accordingly).*

*(5) Subsections (2) and (3) do not affect—*

*(a) the right (under rule 5(c) of Schedule 4 or otherwise) to bring a counterclaim in the court in which, in accordance with subsection (2) or (3), the original claim is pending,*

*(b) the operation of rule 3(e) of Schedule 4,*

*(c) the operation of rule 5(a) of Schedule 4 so far as it permits an employer to be sued by an employee, or*

*(d) the operation of any other rule of law which permits a person not domiciled in the United Kingdom to be sued in the courts of a part of the United Kingdom.*

*(6) Subsections (2) and (3) may be departed from only by an agreement which—*

*(a) is entered into after the dispute has arisen, or*

*(b) allows the employee to bring proceedings in courts other than those indicated in this section.*

*(7) For the purposes of this section, where an employee enters into an individual contract of employment with an employer who is not domiciled in the United Kingdom, the employer is deemed to be domiciled in the relevant part of the United Kingdom if the employer has a branch, agency or other establishment in that part of the United Kingdom and the dispute arose from the operation of that branch, agency or establishment.*

**17. S.41 Domicile of Individuals CJA 1982**

*(1) ... The following provisions of this section determine, for the purposes of ... this Act, whether an individual is domiciled in the United Kingdom or in a particular part of, or place in, the United Kingdom ...*

*(2) An individual is domiciled in the United Kingdom if and only if—*

*(a) he is resident in the United Kingdom; and*

*(b) the nature and circumstances of his residence indicate that he has a substantial connection with the United Kingdom.*

**Decision**

18. S.15C (2)(a) CJA says that an employer may be sued by an employee where the employer is domiciled in the UK, in the courts for the part of the UK, where the employer is domiciled.
19. The Tribunal was satisfied that s15C applies in this case, where the Claimant seeks to litigate against her former employer with regard to matters which relate to the period in which she was contracted to work for the school.
20. The Claimant has elected to bring these proceedings against Mr Torrington, rather than any other party.
21. The primary issue for this hearing in the Tribunal was whether Mr Torrington was domiciled in the UK at the time when the Claimant started these proceedings.
22. s.41(2) CJA sets out that an individual is domiciled in the UK if they are  
a) resident in the UK and b) the nature and circumstances of their residence indicate that he has a substantial connection with the UK.
23. Mr Torrington's witness statement and supplemental statement, which the Tribunal read and took into account indicated that he took up a post in UAE on 17 January 2024 and that he remains living and working there.
24. Having listened to all that the Claimant said about the difficulties she has found herself in since her dismissal, and the problems with bringing a claim in the UAE, the Tribunal decided as follows:
25. The Claimant brought her claim in the name of Mr Torrington personally, the question was therefore whether he was domiciled in the UK at the time of issue of claim on 14 February 2024 – the factual answer to that was – no, he was not. He had already moved to the UAE and started a role there on 17 January 2024. He was therefore not resident in the UK at the time the claim was issued against him.

26. On that basis the claim could not proceed, as the Tribunal had no jurisdiction to hear it under s.15C CJJA 1982.
27. For the sake of completeness, the Tribunal also noted that being a CEO is a job, whereas being a director of a company is a different type of legal relationship. The fact that the Respondent remained a director of the company, does not mean that he has residence in the UK.
28. The Tribunal also noted that the only evidence of connection between the Al Kamarah school and Aspris Children’s Services is by way of the letter of 22 August 2023 which says the school was ‘operated’ by their predecessor in title. This is not sufficient evidence to suggest that it is the employer of the Claimant.
29. The claim is therefore dismissed on the basis that the Tribunal has no jurisdiction to hear the claim.

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Employment Judge Cowen

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Date 16 December 2024

JUDGMENT & REASONS SENT TO THE PARTIES ON

23 December 2024 .....

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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/>