



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr R Avram

**Respondents:** (1) Smartsec Solutions Limited  
(2) Karter Estates Limited

**Heard at:** Reading **On:** 12 and 13 January 2026  
(in chambers deliberations on 13 January 2026)

**Before:** Employment Judge Gumbiti-Zimuto

## Representation

**Claimant:** In Person  
**Respondent 1:** Mr G Williams, consultant  
**Respondent 2:** Mr C Kennedy, counsel  
**Interpreter:** Ms I Florea (Language- Romanian)

## PRELIMINARY HEARING

# RESERVED JUDGMENT

The claimant's employment did not transfer from the first respondent to the second respondent there was no relevant transfer.

## REASONS

1. The purpose of this preliminary hearing is to determine a preliminary issue, namely whether there was a TUPE transfer of the claimant's employment from the first respondent to the second respondent in or around January 2024 coinciding with the sale of the building where the claimant worked.
2. The claimant has not given any evidence, the claimant has not provided any witness statement in accordance with the directions given for the preliminary hearing by Employment Judge Graham on 13 August 2025.
3. The evidence presented to me has come from Ms L Martinez Moreno on behalf of the first respondent and Mr R Dharwar on behalf of the second respondent. I have also been provided with a preliminary hearing bundle containing 215 pages of documents. From these sources I made the following finding of fact.
4. The claimant started working in a security role at a building called Central Point (the building) which is located in Reading. The claimant worked there for a succession of employers from 18 November 2008.

5. At some point between 2020 until the building was sold to the second respondent it was owned by Al Adan Limited.
6. Al Adan Limited contracted out the management of the building to Helix and they in turn then subcontracted out the security and concierge function to the first respondent on 1 March 2016. The claimant's employment transferred to the first respondent from that date.
7. The claimant's duties have not been clearly defined, the claimant has not given evidence or provided a statement, the first respondent has not produced a job description or contract of employment for the claimant. The parties have however referred to the claimant as carrying out security and concierge services at Central Point.
8. The second respondent is a property investment company which was set up as a special purpose vehicle to purchase the building. The second respondent's plans, made clear during the conveyancing process, was to purchase the asset and not any kind of ongoing business.
9. When the second respondent purchased the building they expected that the occupancy of the building would reduce over time. When the second respondent completed the purchase of the building on 5 January 2024 five of the office spaces were occupied. By March 2025 there were no lessees left.
10. The second respondent did not intend to continue the security and concierge service when they purchased the building. The second respondent agreed with the seller that upon completion the seller would give a month's notice to Helix and that Helix in turn were to give notice to all their subcontractors. The first respondent was given notice by Helix on 8 January 2024 specifying that "*all services are to cease as of Thursday the 7<sup>th</sup> of February 2024.*"
11. The second respondent undertook a review of the service charge made to lessees in the building and to this end asked to be provided with a breakdown of charges made by the first respondent, part of the email exchange to this effect is found in emails to and from Peter Wilkinson and Rob Farmer. As a result of the review the second respondent reduced the service charges from £7 per square foot to £1.70 per square foot. The second respondent did not use a managing agent.
12. The first respondent made a sales pitch to the second respondent to provide them with security and concierge services. This came to nothing as the second respondent had no intention of providing the security and concierge services after completion of the purchase of the building.
13. On about 5 January 2024 there was a conversation between the claimant and Ranjit Dharwar. The claimant told Ranjit Dharwar that he ran his own plumbing business following which the claimant carried out some plumbing work for the second respondent for which he was paid separately. This plumbing work was not part of the claimant's duties in his employment providing security and concierge services as an employee of the first

respondent. The claimant was not offered employment with the second respondent.

14. In period from 5 January to 7 February 2024 the claimant did carry out some duties in the building, there were also significant periods of time when the claimant was not at the building carrying out any security/ concierge services.
15. The claimant informed the second respondent that he had some information relating to the heating system in the building. In order to facilitate a secure, easy and GDPR compliant transfer of the information from the claimant to the second respondent Ranjit Dharwar suggested that the claimant be provided with access to the respondent's email. However in fact this did not actually take place and the claimant was not given such.
16. Leyre Martinez Monero, the first respondent's HR manager, contacted the second respondent and stated that she considered that TUPE may apply. On 31 January 2024, there was a conversation between Leyre Martinez Moreno and Ranjit Dharwar. There is some dispute between the parties about what was said or not said during this conversation. I am satisfied that during this conversation Ranjit Dharwar informed Leyre Martinez Moreno that the second respondent had no plans to provide security and concierge services. I am also satisfied that Ranjit Dharwar did not say that the claimant would need to resign and that respondent would then employ him on new terms. The second respondent did not have a job for the claimant to do in respect of security and concierge services.
17. By the 2 February 2024 the claimant had been asked to return all the property relating to the building and had done so. The claimant was then asked to leave the building. On the 2 February 2024 the claimant had a consultation meeting with Leyre Martinez Moreno.
18. Regulation 3 of The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as relevant here) provides that:
  - 3.—(1) These Regulations apply to—
    - ...
    - (b) a service provision change, that is a situation in which—
      - (i) activities cease to be carried out by a person (“a client”) on his own behalf and are carried out instead by another person on the client's behalf (“a contractor”);
      - (ii) activities cease to be carried out by a contractor on a client's behalf (whether or not those activities had previously been carried out by the client on his own behalf) and are carried out instead by another person (“a subsequent contractor”) on the client's behalf; or
      - (iii) activities cease to be carried out by a contractor or a subsequent contractor on a client's behalf (whether or not those activities had previously been carried out by the client on his own behalf) and are carried out instead by the client on his own behalf,
  - and in which the conditions set out in paragraph (3) are satisfied.
  - ...

(2A) References in paragraph (1)(b) to activities being carried out instead by another person (including the client) are to activities which are fundamentally the same as the activities carried out by the person who has ceased to carry them out.

(3) The conditions referred to in paragraph (1)(b) are that—

(a) immediately before the service provision change—

(i) there is an organised grouping of employees situated in Great Britain which has as its principal purpose the carrying out of the activities concerned on behalf of the client;

(ii) the client intends that the activities will, following the service provision change, be carried out by the transferee other than in connection with a single specific event or task of short-term duration; and

(b) the activities concerned do not consist wholly or mainly of the supply of goods for the client's use.

19. The issue on which the first and second respondent have engaged is whether there was a relevant transfer. The claimant has been a silent but interested observer.

The first respondent's case

20. The first respondent states that the building remained the same with lease holders who continued to occupy it as a commercial building for period of 14 months following the second respondent's purchase. They submit that activities continued to be carried on that had initially been carried out by a contractor on the clients behalf were then carried out by the client on its own behalf following the sale of the building.

21. The first respondent stated that the actual clients were the lessees of the building who were occupying the building paying rent and service charge and carried on doing so for up to 14 months. This was not something of short term duration.

22. The first respondent does not accept that there was just an asset purchase, and relies on the evidence of Ranjit Dhawar who said there was "*less need*"<sup>1</sup> for the services which had previously been provided and not that there was "*no need*". The first respondent says that there is a contradiction in his answer to questions compared to what is said in his witness statement about some services continuing. The first respondent stated that ascertaining the degree to which the services continued is hampered by the lack of a witness statement from the claimant. The first respondent also stated that Peter Wilkinson, the second respondent's surveyor, was not saying that the second respondent was going to cease providing the services, he was talking about revising services.

23. The first respondent states that the absence of planning permission at the time of the purchase is a relevant factor when considering what the respondent's intention was. I am asked to prefer the evidence of Lyre Martinez Moreno over that of Ranjit Dharwar because she has set matters out in near contemporaneous emails.

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<sup>1</sup> Paragraph 7 of Ranjit Dharwar's witness statement.

24. The first respondent says that the second respondent employed the claimant because there was an automatic transfer of his employment pursuant to regulation 4.

The second respondent's case

25. The second respondent states that the first respondent's reliance on regulation 3(1)(b)(ii) TUPE is misconceived and that the first respondent must rely on regulation 3(1)(b)(iii). The second respondent states that the client did not remain the same and therefore the first respondent's contention that there was a relevant transfer must fail. The second respondent states that the lessees cannot be the client for the purposes of regulations and the building is not a legal entity.
26. The second respondent states that the correct analysis is that the activities the claimant was carrying out were as an employee of first respondent and the client was Helix. The second respondent points to the termination of the service agreements and says that the activities did not continue after the notice expired. Further that until 5/7 February 2024 the claimant remained an employee of first respondent.
27. The second respondent states that the first respondent's case must fail because there is no evidence that the activities continued after 2 February 2024.
28. The second respondent further states that on any view of the evidence between 5 January 2024 and 7 February 2024 the claimant was doing work for the first respondent doing the same activities and being paid by the first respondent. Further the second respondent states that the unchallenged evidence, and only evidence, on the issue is that claimant was not doing very much work at all in January 2024.
29. The second respondent says that as to the evidence on intention of the parties on this purchase, all the documentation makes clear that it is an asset purchase and that all service contracts were to come to an end.
30. This case is about whether there was a service provision change. The claim is presented by the parties on that basis and is considered by me on that basis.
31. The provisions at regulation 3(1)(b)(iii) are relevant to this case. On the evidence before me the way that the first respondent can put the case is by saying that the activities cease to be carried out by a contractor or a subsequent contractor on a client's behalf and are carried out instead by the client on his own behalf.
32. I did not conclude that the evidence showed that there was any meaningful contradiction in the evidence contained in Ranjit Dharwar's witness statement and his oral evidence. A fair consideration of the totality of both in my view leads to the conclusion that his evidence was consistent in stating that the second respondent was not going to continue to provide the security and concierge services. A consideration of the email of Peter Wilkinson in the context in which it was sent does not lead to a conclusion

that the second respondent was going to continue security and concierge services. Peter Wilkinson was reviewing the service charges while Rob Farmer was pitching the first respondent's services.

33. The issue of planning permission cannot assist me in considering the second respondent's intention. The emails of Lyre Marinez Moreno do not lead me to conclude that her evidence is to be preferred to Ranjit Dharwar. What they show is that it was being clearly expressed on behalf of the second respondent by Ranjit Dharwar that they did not consider that TUPE applied in this case.
34. The services in this case were provided by the first respondent and they did so on behalf of Helix who were responsible for the management of the building on behalf of Al Adan Limited. As part of the terms of the purchase of the building Helix were not going to be retained and they in turn were required to give notice to the first respondent. From the 7 February 2024 they cease to be the client. In those circumstances there cannot be a service provision change because the client has changed. For there to be a service provision change the client must remain the same.
35. The evidence before me is clear in respect of the question whether the activities continue. In my view the activities do not continue. In the period from 5 January 2024 the position is that all parties were given notice that the services were to end. This is what happened, from as from 2 February 2024 there were no further services provided by first respondent.
36. In the period from 5 January 2024 until 7 February 2024, the evidence makes clear that at least some of the services continued to be provided. The evidence is unclear as to what specific services were to be provided under the contract because there was no evidence from the claimant and no evidence as to the claimant's contract or job description. On the assumption that what took place between 5 January 2024 to 7 February 2024 was what the contract provided for, in my view there was no transfer. The claimant remained employed by the first respondent, carried out the activities on their behalf and was paid by the first respondent. Between 5 January 2024 and 7 February 2024 there had been no transfer of the claimant's employment.
37. The evidence clearly shows that after the 2 February 2024 the activities ceased. In the event of the activities ceasing there can be no service provision change.
38. My conclusion is that claimant's employment did not transfer from the first respondent to the second respondent there was no relevant transfer.

Approved by:  
**Employment Judge Gumbiti-Zimuto**  
**14 January 2026**

JUDGMENT SENT TO THE PARTIES ON  
21 January 2026

**FOR THE TRIBUNAL OFFICE**

**Notes**

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[www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/](http://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/)