

Mr N Krishnan
9A Market Place
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6 May 2022

Sent by post and email: narayanan.k.1985@gmail.com

Dear Mr Krishnan

Yourself v Samsung Cambridge Solution Centre Ltd
Case Numbers: 3320666/2021 and 3302762/2022

We write in relation to the Employment Tribunal Claim that you have brought against our client, Samsung Cambridge Solution Centre Limited (Case No. 3320666/2021) and the contract claim that our client has brought against you (Case No. 3302762/2022).

By now you will have received and considered our client's Response and the Final Hearing Bundle of around 400 pages. As reinforced in our earlier correspondence, our client resists your Claim in its entirety.

Our client's position is that your Claim is entirely misconceived, unfounded and has no reasonable prospect of success at the Final Hearing listed for 1 day on 20 October 2022 ("**Final Hearing**"). In particular:

- (a) Given the nature of the sector and role you work in, it is commonplace for work outside normal office hours to be required. This is in order to minimise disruption to those for whom the work is performed, who themselves work a more traditional 9am – 5pm pattern;
- (b) Our client stated clearly in the contract of employment offered to you that work outside normal working hours ("**Additional Hours**") will not receive additional pay;
- (c) You signed the contract of employment agreeing to those terms and did not question those until it was confirmed to you that you were required to repay amounts to our client, following your resignation. Those amounts being in respect of the immigration and relocation amounts that were paid in good faith by our client to support your recruitment into the business;
- (d) You do not dispute that the amounts due for repayment to our client are due and therefore our contract claim will succeed to its fullest extent;

- (e) The Additional Hours worked by you were performed voluntarily following requests put to the team by the line manager as to who was willing to take on specific tickets;
- (f) You have alleged that the nature of the way in which tickets were allocated to you was such that there was no realistic way to accept a ticket without also accepting that Additional Hours would be required. You have however explained that the extent and timings of those Additional Hours would be decided by you;
- (g) You have confirmed that you did not consider there was a penalty or repercussion for pushing back on the request to work Additional Hours and declining a ticket (which you have admitted was an option available to you), save for some embarrassment if you were asked for a general status update in team meetings.
- (h) The number of Additional Hours did not go beyond what was reasonable for your position and remuneration package, which is a financially advantageous package given the high-pace nature of the work carried out by our client. Any decisions made to work over and beyond what you consider reasonable, were made by you alone, without any pressure placed upon you by our client.

Costs Warning

As you will no doubt be aware, pursuing this claim against our client will put it to a considerable, disproportionate and unnecessary level of cost and expense, both in terms of management time and financial spend.

Please note that our client is fully prepared to defend your Claim at a Final Hearing should this become necessary. Our client has identified a barrister for the Final Hearing and anticipates instructing them in respect of preparations from 16 May 2022 onwards if your claim is continuing at that date, which will involve our client incurring further costs. However, given our clear and genuine concern about your prospects of success, we refer you to Rules 76-78 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ('Rules'). These Rules provide a mechanism whereby the Employment Tribunal can order one party to meet all or part of the costs incurred by another party, up to a sum of £20,000 ('Costs Order'). A Costs Order can be made where a Claim is pursued when it has no reasonable prospect of success.

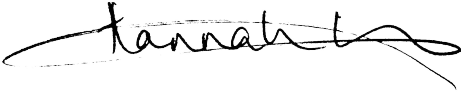
For the reasons set out above, it is clear that your Claim has no reasonable prospect of success. In these circumstances and in the interests of dealing with this matter proportionately and saving expense, we formally invite you to withdraw your Claim against our client by **4.00pm on Friday 13 May 2022**. Given the undisputed strength of our client's contract claim against you, our client shall not be withdrawing its contract claim. However, our client shall remain open to correspondence with you on how you wish to repay the outstanding monies due to them.

We are putting you on notice as to costs at this stage to give you every opportunity to withdraw your Claim before our client incurs further time and costs in preparing for the Final Hearing. If you do not withdraw your Claim and persist with these proceedings, then in the likely event that you are unsuccessful at Tribunal, our client reserves the right to make an application to the Employment Tribunal and will seek to recover as much of its costs as possible.

We are mindful that to date you have not been formally represented in this matter. We therefore encourage you to seek independent legal advice and give some serious and honest consideration as to your prospects of success in this matter.

Finally, to be clear, in the event that you do not take this opportunity to withdraw your Claim, we reserve the right to place this letter before the Employment Tribunal in support of our client's application for costs at the Final Hearing.

Yours sincerely

pp. 

Carrie March
Senior Associate
for Mills & Reeve LLP