

EMPLOYMENT APPEAL TRIBUNAL

Appeal No UKEAT/0091/17/BA

BEFORE:

THE HONOURABLE MR JUSTICE LANGSTAFF

IN THE MATTER of an Appeal under Section 21(1) of the Employment Tribunals Act 1996 from the Judgment of an Employment Tribunal sitting at London Central and sent to the parties on the 4th day of January 2017

BETWEEN:

Dynasystems For Trade and General Consulting Ltd and Others Appellants

- and -

Mr M Moseley Respondent

UPON HEARING Mr G Baker of Counsel on behalf of the Appellants and Ms T O'Halloran of Counsel on behalf of the Respondent

THE TRIBUNAL ORDERS that the Appeal be dismissed

THE TRIBUNAL DIRECTS that there be no Order as to the Cross-Appeal

AND UPON the application of the Appellant for leave to appeal to the Court of Appeal

THE TRIBUNAL FURTHER ORDERS that the aforesaid application be refused

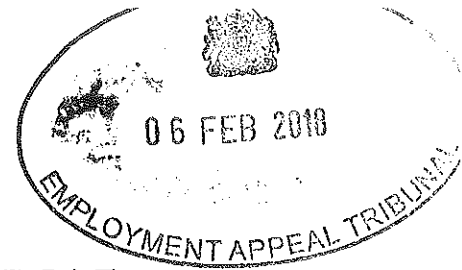
THE TRIBUNAL DIRECTS that any further application for leave to appeal should be made direct to the Court of Appeal within 21 days of the seal date of this Order

D A T E D the 25th day of January 2018

TO: Oval Law Solicitors for the Appellant
Mr Mark Moseley the Respondent

The Secretary, Central Office of Employment Tribunals, England & Wales

(Case No.2206153/2016)



EMPLOYMENT APPEAL TRIBUNAL

APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF APPEAL (CIVIL DIVISION)

Title of Case		Case Number
Dynasystems For Trade and General Consulting Ltd and Others Vs Mr M Moseley		UKEAT/0091/17/BA
Heard Before		Court
THE HONOURABLE MR JUSTICE LANGSTAFF		TWO
Nature of Hearing Full Appeal		
Result of Hearing (see attached Order)		
Appellant's Application for leave to Appeal		Refused
Reasons for Decision (to be completed by the Judge)		
<p>(a) There is little of practical significance in the case – there was no appeal against the Claimant's victory on the substantive issues in the case: the respondent's counsel told me at the outset that the Claimant will get his money against whichever Respondent is held to be employer. The significance is purely internal so far as the Groups of companies of which the respondents are part is concerned.</p> <p>(b) PTA was sought only in respect of Grounds 1 and 4. The argument that the judge needed to consider whether finding that R2 was the employer was a "necessary" finding may have traction if the issue is whether there was a contract at all between the parties: here there was a contract, and the issue was whether it was purely written (with R1 – there was only the fact of a written contract and that C was paid out of a bank account in the name of R1 to suggest that it was) or whether it had actually been agreed that, as a document produced contemporaneously by and on behalf of the Group of companies suggested, the context indicated and later actions by R2, viewed as a whole, tended to substantiate, the agreement was that R2 should be the employer. The argument as to "necessity of implication" is a purely technical argument which does not accord with the realities as the judge saw them.</p> <p>(c) No point of great substance for other cases arises.</p> <p>(d) The appeal raises no properly arguable point.</p>		
Judge Signature		Note to the Applicant: When completed, this form should be lodged in the Civil Appeals Office on a renewed application for leave to appeal or when setting down an appeal.