



EMPLOYMENT TRIBUNALS

Claimant:
Miss M Puar

v

Respondent:
Cameron Clarke Lawyers Ltd

Heard at: Reading

On: 6 April 2017

Before: Employment Judge Gumbiti-Zimuto

Appearances

For the Claimant: No attendance or representation

For the Respondent: Mr J Singh (Consultant)

APPLICATION FOR RECONSIDERATION AND COSTS HEARING

JUDGMENT

1. The application for a reconsideration is dismissed.
2. No order is made on the costs application.

REASONS

1. The claimant wrote to the Employment Tribunal, in an email sent on 5 April 2017 at 2.24, that she wished to withdraw the application for reconsideration.
2. I have had an opportunity of considering the file on this case and based on my perusal of the Employment Tribunal file, I am unable to see a basis on which the claimant's application for reconsideration, had it been continued, would have been successful. In the circumstances, I have determined that the appropriate order is to dismiss the application for a reconsideration.
3. Mr Jagdesh Singh took the pragmatic view not to pursue the costs application. The basis of the application for costs is that the claimant's conduct of the proceedings has been unreasonable and it is said that the

purpose of the claimant bringing the proceedings was to embarrass and harass the respondent rather than necessarily to seek a genuine remedy the claimant had against the respondent.

4. The claimant has not attended today's hearing and I have not had to make any determination on the questions which were raised by Mr Singh in his application.
5. I make the following observations about the history of this case. The claimant presented her claim form, in which she claimed notice pay, arrears of pay, and other payments which she quantified at approximately £5,000.00, on 27 March 2016. The respondent defended the claims and in its response, received on 3 May 2016, denied the claimant's claim and contended that she was not an employee. The respondent made the assertion that the claimant's claims were 'dishonest and duplicitous' and asked for the claims to be struck out.
6. The case was listed as a fast track case with a one hour hearing on 6 June 2016. That hearing was vacated and the case was re-listed on 13 June with a time allocation of three hours.
7. Prior the hearing taking place on 13 June, the file was considered by an Employment Judge who converted the hearing on 13 June to a preliminary hearing, the purpose of which was to consider the extensive and acrimonious correspondence which had taken place between the parties. The three-hour listing for the case was retained.
8. The case came before an Employment Judge on 13 June. The Employment Judge was presented with an application made by the respondent to strike out the claim. The Employment Judge declined to strike out the claimant's claim, explaining that the preliminary hearing had been set up for the purposes of case management only and further that the strike out application could only be determined by hearing evidence.
9. The Employment Judge went on to give directions in relation to the preparation of the case including listing the case for a three-day hearing to take place between 5 and 7 December 2016. Amongst the orders made by the Employment Judge was a requirement that the claimant provide a schedule of loss by 27 June and that the parties exchange witness statements by 24 October 2016.
10. On 6 September 2015, the Employment Tribunal made an Unless Order requiring the claimant to provide a schedule of loss. Subsequently, the claimant withdrew her claim for wrongful dismissal indicating that she wished to proceed with the claim in the County Court. The case was to continue in respect of her other complaints.
11. The claimant next made an application for a postponement on 25 November 2016. The application for a postponement was refused. The claimant renewed the application on 28 November. The application was

again refused. The claimant renewed the application three days before the hearing was due to take place on 2 December. The application for a postponement was again refused.

12. The hearing of the case was vacated by the Regional Employment Judge and re-listed to take place between 31 January 2017 and 2 February 2017 because on 5 December 2016 no judge was available to hear the case.
13. On 22 December 2016, the claimant made an application for "further disclosure" from the respondent. This was considered by an Employment Judge who refused the application because it was made too late. The Employment Judge also made an Unless Order requiring the claimant to serve her witness statement on the respondent by 4.00 pm on 17 January 2017.
14. The Employment Tribunal file came before me on 25 January 2017 and having considered the file, I made an order giving the claimant an extension of time until 4.00 pm on 26 January 2017 to serve her witness statement. The claimant made an application for the response to be struck out and I directed that the application to strike out the response should be considered at the start of proceedings on 31 January 2017.
15. The claimant failed to comply with the Order to provide the witness statement and the claim was struck out in accordance with the Unless Order. It should be noted that the time for complying with the original Unless Order was extended to give the claimant more time to comply with the requirement to provide her witness statement.
16. The claimant applied for a reconsideration of the decision to strike out the claim and the respondent made an application for costs.
17. Correspondence took place between the parties leading up to today's hearing concerning the listing of the case.
18. A notice of reconsideration hearing and costs application was sent to the parties on 10 March 2017. Unfortunately, the notice of the reconsideration hearing and costs application did not state a time when the hearing was to take place.
19. The claimant states that in the week prior to the hearing, she telephoned the Employment Tribunal and made an enquiry as to what time the hearing was due to take place. The claimant states that she was told that the hearing was to take place at 3.00 pm. I have considered the Employment Tribunal file and can find no indication of a telephone conversation taking place between the claimant discussing the time of the hearing. The only reference to the time of the hearing is contained in the claimant's email in which the claimant refers to having been told that the tribunal hearing was to take place at 3.00 pm.

20. Such a statement by any member of the tribunal staff would be an unusual. Cases in the Reading Employment Tribunal are as a rule listed either at 10.00 am or 2.00 pm. On occasions, cases are listed at either 11.00 am or 12. 00 midday as starting times. I am unaware of any occasion when a case has been listed with a 3.00 pm start. This case had a time allocation of three hours. A 3.00 pm start would have meant that the case was scheduled to concluded at 6.00 pm. Hearings before the Employment Tribunal would ordinarily conclude at some time between 4.00 pm and 4.30 pm as a rule. The case would not be listed to take place between 3.00 pm and 6.00 pm. A member of the Employment Tribunal staff in my view would have been aware of this and therefore unlikely to have stated, incorrectly, that the case was listed for a 3.00 pm start.
21. What may have happened is that the claimant has transposed three hours, the time allocation, into 3.00 pm and has mistakenly concluded that the case was listed for a 3.00 pm start.
22. There was email correspondence between the claimant and the Employment Tribunal. During that email correspondence, the Employment Tribunal told the claimant that the case was starting at 10.00 am. It was this information which resulted in the claimant making an application for the case to be listed to start at 3.00 pm. The claimant stated that she had made an urgent appointment elsewhere which meant that she would not be able to attend the hearing before 3.00 pm. I considered the application and refused it on the basis that I was not satisfied that the claimant had been told by the Employment Tribunal that the case would start at 3.00 pm.
23. The claimant then subsequently wrote to the Employment Tribunal and indicated that she wished to withdraw the application for a reconsideration and she asked for the respondent's costs hearing to be postponed. This application was not put before me until 10.00 am this morning.
24. Having made those comments about the way that the case has been conducted by the claimant to date, it is my view that an impression could be formed that the purpose of the proceedings was to embarrass and harass the respondent. This is certainly what the respondent says was the purpose. The respondent has prepared a schedule setting out instances of unreasonable conduct by the claimant in the conduct of these proceedings.
25. I was told by Mr Singh that this schedule had not been served on the claimant. The claimant was not present. It would not have been possible to make any determination in respect of the contents of the schedule. Adverse findings of fact against the claimant would have to be made by me for me to reach a conclusion that a costs order was appropriate in this case. In those circumstances, Mr Jagdesh Singh pragmatically took the view that he would not increase costs in relation to these proceedings by further pursuing the costs application.

26. I have therefore not been required to make any findings of fact in relation to the matters giving rise to the application for costs.

Employment Judge Gumbiti-Zimuto

Date: 7 April 2017

Judgment and Reasons

Sent to the parties on: 27 April 2017

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For the Tribunal Office