



EMPLOYMENT TRIBUNALS

Claimant Mr G Brown
Represented by Mr R Leong, Solicitor

Respondent St Mungo's Housing Association
Represented by Me S Liberadzki, Counsel

Before: Employment Judge K Andrews

**Preliminary Hearing held on 18 July 2017 at
London South Employment Tribunal by telephone**

JUDGMENT

The claim of unfair dismissal is dismissed upon withdrawal.

ORDER

CLAIMS AND ISSUES

1. After a discussion with the parties and a review of recent correspondence and orders, it was identified that the claimant brings claims of victimisation and breaches of the Working Time Regulations 1998 in respect of both paid breaks and annual leave. All other claims have previously been withdrawn. It seems that no formal order has previously been made in respect of the claim of unfair dismissal and accordingly Judgment is given as above.
2. The issues arising in these claims are as follows.
3. Victimisation The respondent accepts that in order to bring a claim of victimisation the claimant does not have to establish the fact of disability. Accordingly, although the respondent does not admit that the claimant was disabled at the relevant times, it is not necessary for that issue to be determined by the Tribunal.

4. The protected acts alleged by the claimant are:
 - a. a request in November/December 2015 for an adjustment to the requirement that he complete log-books manually (paragraphs 7&8 of the Amended Particulars of Claim); and
 - b. requests in January-March 2016 for an adjustment to the requirement that he collect and dispose of rubbish from bins (paragraphs 8&9 (nb there are two paragraphs 8) of the Amended Particulars of Claim).
5. The respondent denies both protected acts. In respect of the first it says the suggestion to use the computer was in fact made by Ms Gladstone. It says it had no knowledge that the claimant was having difficulty with the bins. The respondent has raised no issue regarding the good faith or otherwise of the claimant.
6. Working Time The claimant says that he should have been paid for his 30 minute breaks. The respondent says that all breaks were properly paid for. As for holiday pay, the parties agree the claimant was due to be paid but there is a dispute as to whether he was. I encouraged the parties to resolve between themselves this apparently straightforward issue of fact.

CASE MANAGEMENT ORDERS

Schedule of Loss

- 1 On or before **1 August 2017** the claimant shall supply to the respondent a Schedule of Loss, setting out against each claim for monetary compensation the amount claimed and any relevant calculation. The Schedule shall also show any amounts the claimant offsets by way of credit and a total figure the claimant claims in these proceedings. The Schedule will be updated seven days before the Hearing together with copies of any new supporting documents.

Disclosure of Documents

- 2 On or before **1 August 2017** the parties shall send to each other copies of all documents which are or have been in their possession or power relating to the matters in issue in these proceedings including any documents relevant to the remedy sought.

Bundle of Documents for Tribunal Hearing

- 3 On or before **15 August 2017** the respondent shall send to the claimant a copy of the proposed bundle for the Hearing for the claimant to agree if possible. If it cannot be agreed the claimant shall indicate his disagreement and the reasons why on or before **22 August 2017**.
- 4 The bundle shall contain a copy of each document both parties intend to use at the Hearing, together with a list of contents, with each page numbered, avoiding duplication and be so bound or otherwise held together, so as to open flat.

- 5 The respondent shall bring five identical copies of the bundle to the Hearing.
- 6 The parties are encouraged to agree a chronology for use at the Hearing.

Witness Statements

- 7 The parties shall prepare a written statement for each witness (including the claimant or respondent who will give evidence personally) who it is intended will be called to give evidence on their behalf at the Hearing. The witness statements shall:
 - 7.1 be typed in double spacing;
 - 7.2 contain the evidence of the witnesses;
 - 7.3 be laid out in short consecutively numbered paragraphs;
 - 7.4 set out in chronological order, with dates, the facts which the witness can state;
 - 7.5 omit any matter not relevant to the issues in this case;
 - 7.6 identify the source of any information which the witness does not know first hand;
 - 7.7 refer by page number in the bundle of documents to any document mentioned in the statement; and
 - 7.8 be signed.
- 8 Each party shall ensure that there are six copies of each statement of their own witnesses available at the Hearing and not contained in the bundle of documents.
- 9 No evidence may be given or expanded upon by a witness other than the evidence contained in the written statement of that witness without the leave of the Tribunal. No witness may be called by a party to give evidence at the Hearing unless a written witness statement has been prepared and exchanged or with the leave of the Tribunal.
- 10 On or before **12 September 2017** each party shall provide to the other one copy of each witness statement for each of the witnesses that party intends to call to give evidence at the Hearing. If any party does not receive the witness statements of another, that party must immediately inform the Tribunal in writing together with any reason given by that other.

Hearing Date

- 11 The Hearing is already listed for 4 days commencing 16 October 2017. Given the reduction in issues this listing is reduced to **3 days** commencing on the same date. No postponement of this date will be granted unless there are exceptional unforeseen circumstances.
- 12 It is noted that the claimant expects to call up to three witnesses and the respondent expects up to four. Time restrictions may have to be placed on questioning of witnesses and on closing speeches if it appears that the time allocation might be exceeded. The parties are expected to co-operate to ensure that the case can be completed within the time allocated.

Judicial Mediation

- 13 I discussed with both parties the possibility of judicial mediation as an alternative way of resolving this dispute. The claimant is interested. The respondent will consider whether it is interested once the claimant's schedule of loss has been provided as ordered above. I encouraged the respondent to give it active consideration.

Employment Judge K Andrews
Dated 18 July 2017

NOTES

- 1 *This Order constitutes a notice of hearing under the Employment Tribunals Rules of Procedure 2013. At the Hearing all parties will have the opportunity to submit written representations and to advance oral argument. If a party wishes to submit written representations for consideration to the hearing s/he shall present them to the Employment Tribunal Office not less than 7 days before the Hearing and shall, at the same time send a copy to all other parties.*
- 2 *Failure to comply with an Order relating to the disclosure or inspection of documents may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under section 7(4) of the Employment Tribunals Act 1996.*
- 3 *The Tribunal may also make a further Order (an "Unless Order") providing that unless it is complied with, the claim or, as the case may be, the response shall be dismissed without further order.*
- 4 *An Order may be varied or revoked upon application by a person affected by the Order or by an Employment Judge on his or her own initiative.*
- 5 *This Order confirms orders made/directions given at a hearing on 18 July 2017.*
- 6 *No further notice of hearing will follow.*