



EMPLOYMENT TRIBUNALS

Claimant

Ms P Christie

Respondent

v **Department of Work and Pensions**

PRELIMINARY HEARING

Heard at: **Watford**

On: **26 May 2017**

Before: **Employment Judge R Lewis**

Appearances:

For the Claimant: **Ms C Moore, Solicitor**

For the Respondent: **Ms G Hicks, Counsel**

JUDGMENT

1. The claimant's claims for breach of contract are dismissed on withdrawal.

PRELIMINARY HEARING

2. This was a preliminary hearing for routine case management, in accordance with the tribunal's usual procedure in a case involving discrimination.
3. I record my appreciation to both representatives for the degree of thoughtful preparation brought to this hearing, which made the task of the tribunal relatively manageable.
4. The working document before the tribunal was a draft list of issues sent by Ms Moore on 25 May at 10:21, running to 26 paragraphs.

ORDERS

Made pursuant to the Employment Tribunal Rules 2013

5. No later than **16 June 2017** the parties are to send to the tribunal the final version of the list of issues, which, if not fully agreed, is clearly to identify any matter which remains in dispute.
6. In preparing the final list of issues, the parties have agreed that the following points are to be addressed:-

- 6.1 The respondent to clarify which of the protected acts relied upon by the claimant, if any, is agreed to be a protected act for the purposes of s.27 Equality Act;
 - 6.2 Clarification of dates of emails, as in paragraph 8(b);
 - 6.3 The identity of any actual comparator or comparators relied upon, in accordance with paragraph 11(a);
 - 6.4 Confirmation in relation to paragraphs 14(a) to 14(d) which criteria are referred to in relation to which disability;
 - 6.5 Confirmation, under paragraph 14, of how the claimant states each PCP put the claimant at particular disadvantage;
 - 6.6 Clarification whether paragraphs 15(a) and 15(b) refer to the same point;
 - 6.7 Clarification of the claimant's case under paragraph 15(d).
7. It is confirmed for the avoidance of doubt that the factual matters set out in the list are definitive, and that the claimant has leave to reduce but not extend them.
 8. Ms Moore having informed the tribunal that the claimant has not had paid work since dismissal, no formal schedule of loss is ordered at this stage. The claimant is to notify the respondent within 14 days of taking up any paid work of having done so, and of the terms on which she has done so.
 9. Both parties having expressed an interest in principle of judicial mediation, the claimant is by **21 June 2017** to send to the respondent a schedule of desired outcomes in mediation.
 10. If the respondent wishes to pursue judicial mediation in principle, it is by **7 July 2017** to send a counter schedule to the claimant.
 11. If on receipt of schedule and counter-schedule both parties wish to apply for judicial mediation, they should apply jointly to the tribunal in writing, at which point their joint application will be considered by the Regional Employment Judge.

1. Disclosure of documents

- 1.1 The parties are ordered to give mutual disclosure of documents relevant to the issues identified above by list and copy documents so as to arrive on or before **3 November 2017**. This includes, from the claimant, documents relevant to all aspects of any remedy sought.
- 1.2 Documents relevant to remedy include evidence of all attempts to find alternative employment: for example a job centre record, all adverts applied to, all correspondence in writing or by e-mail with agencies or prospective employers, evidence of all attempts to set up in self-employment, all pay slips from work secured since the dismissal, the terms and conditions of any new employment.

- 1.3 This order is made on the standard civil procedure rules basis which requires the parties to disclose all documents relevant to the issues which are in their possession, custody or control, whether they assist the party who produces them, the other party or appear neutral.
- 1.4 The parties shall comply with the date for disclosure given above, but if despite their best attempts, further documents come to light (or are created) after that date, then those documents shall be disclosed as soon as practicable in accordance with the duty of continuing disclosure.
- 1.5 It is confirmed for avoidance of doubt that the parties' disclosure obligations apply to liability issues only.
- 1.6 The parties are to exchange copies of requested documents no later than **17 November 2017**.

2. **Bundle of documents**

- 2.1 It is ordered that the respondent has primary responsibility for the creation of the single joint bundle of documents required for the hearing.
- 2.2 To this end, the claimant is ordered to notify the respondent on or before **15 December 2017** of the documents to be included in the bundle at their request. These must be documents to which they intend to refer, either by evidence in chief or by cross-examining the respondent's witnesses, during the course of the hearing.
- 2.3 The respondent is ordered to provide to the claimant a full, indexed, page numbered bundle to arrive on or before **12 January 2018**.
- 2.4 The respondent is ordered to bring sufficient copies (at least **five/three**) to the tribunal for use at the hearing, by 9.30 am on the morning of the hearing.

3. **Witness statements**

- 3.1 It is ordered that oral evidence in chief will be given by reference to typed witness statements from parties and witnesses.
- 3.2 The witness statements must be full, but not repetitive. They must set out all the facts about which a witness intends to tell the Tribunal, relevant to the issues as identified above. They must not include generalisations, argument, hypothesis or irrelevant material.
- 3.3 The facts must be set out in numbered paragraphs on numbered pages, in chronological order.
- 3.4 If a witness intends to refer to a document, the page number in the bundle must be set out by the reference.
- 3.5 It is ordered that witness statements are exchanged so as to arrive on or before **16 February 2018**.

- 3.6 The parties are at liberty if so advised, to exchange supplemental statements no later than **2 March 2018**, which must be limited only to replying to any matter which that party considers was first raised in the first round of statements and therefore has not been answered. Supplemental witness statements may be given by a witness who has already provided a statement or by a new witness.

4. Listing the hearing

- 4.1 The hearing is listed for the **8 working days** starting **Wednesday 18 April 2018** at 10am on the first day at **Watford Employment Tribunal, 2nd Floor, Radius House, 51 Clarendon Road, Watford WD17 1HP**, when the tribunal will determine liability only.
- 4.2 While no formal timetable is currently set, it is envisaged that the allocation of time will consist of a maximum of 1 day (if required) in reading, a maximum of 4 ½ days of oral evidence, and ½ a day in closing submissions, leaving the 2 final days for deliberation in the absence of the parties. The tribunal may allocate time for case management of any remedy hearing which may then be required.

CONSEQUENCES OF NON-COMPLIANCE

1. Failure to comply with an order for disclosure may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under s.7(4) of the Employment Tribunals Act 1996.
2. 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 struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice or hold a preliminary hearing or a hearing.
3. An order may be varied or revoked upon application by a person affected by the order or by a judge on his/her own initiative.

Employment Judge R Lewis

Date: 5 July 2017

Sent to the parties on:

For the Tribunal: