



EMPLOYMENT TRIBUNALS

Claimant:

Mrs I Imasuen

v

Respondent:

Dimensions UK Ltd (R1)
Ms Rebecca Speight (R2)

PRELIMINARY HEARING

Heard at:

Reading

On: 28 June 2017

Before:

Employment Judge S Jenkins

Appearances

For the Claimant: Mr A Enabulele (Consultant)

For the Respondent: Miss A Dabek (Solicitor)

JUDGMENT

The Claimant's application, made on 18 April 2017, to amend the claim is granted.

REASONS

Issues

1. The overarching issue for me to consider at this hearing was whether the Claimant's application, made on 18 April 2017, to amend the claim form should be allowed. Miss Dabek, for the Respondent, clarified that she objected only to certain aspects of the application, not to the application in its entirety. It was clarified by Mr Enabulele, on behalf of the Claimant, that the section in the application to amend which related to "violation of statutory rights" (section 5 of the application) would not be pursued, as the issues set out within that section did not give rise to any stand-alone claim which would fall outside the claims already pursued.
2. Within that overarching issue there were two underlying issues to be considered. The first related to the Claimant's reference to receiving insufficient holiday pay on the basis that the amount of holiday pay did not reflect the "sleep ins" she undertook. The second related to a concern on the Respondent's part that the Claimant had not made reference to direct discrimination in her original claim form, or sufficiently to the particulars of

any such claim, and therefore that the amendment sought amounted to a fresh claim.

Conclusions

3. With regard to the former point, the Claimant is still in employment and it appears that she may have taken holiday within the period of three months prior to the application to amend, and may then potentially be able to argue that the payment in respect of such holidays was insufficient. It seemed to me therefore that the Claimant would be in a position to pursue a claim of failure to pay appropriately in respect of holidays in any event, and therefore that it was in furtherance of the overriding objective to allow that amendment to proceed.
4. With regard to the latter point, Miss Dabek first noted that there was no reference in Box 8.1 on the Claimant's claim form to direct discrimination. However, I noted that the Claimant had ticked the general "Race" box at the top of section 8.1 and that the larger box at the end of section 8.1 related only to other claims, i.e. those which were in addition to the claims which had been specifically checked. There was therefore no requirement for the Claimant to have specifically mentioned direct discrimination within that box. I also noted that in the claim form, at section 8.2, the Claimant made specific reference to the Claimant's allegation that her demotion was "*consistent with the ongoing clampdown on black lead support workers*" which I interpreted as indicating that a claim of direct discrimination was being pursued.
5. Miss Dabek then submitted that the detail within the application to amend in relation to direct discrimination raised fresh issues. However, on reading the particular section, I was satisfied that the references all related to the incident which allegedly took place in November 2016, and the treatment of the Claimant after that incident, which formed the core of her original claim form.
6. Overall therefore, I was satisfied that it was appropriate to allow the amendment in its entirety.

Employment Judge S Jenkins

Date: ...3.7.17.....

Sent to the parties on:2.8.17.....

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For the Tribunals Office