

2. At a case management hearing before Employment Judge Porter on 28 February 2017 the second respondent stated it wished to proceed with its applications to strike out the claimant's claims. Employment Judge Porter directed that the second respondent's applications to strike out the claimant's claims should be heard at a preliminary Hearing. That Hearing took place at 1pm on Thursday 27th April 2017.
3. Employment Judge Porter identified the claimants claims against the second respondent as (1) Direct discrimination under s 13 Equality Act.(2) Victimisation under s27 Equality Act and (3) Harassment under s 26 Equality Act 2010.
4. She identified each of the claims. She identified the victimisation claim at paragraph 16 of the note of the case management hearing:-

"EJ Porter explained how the tribunal would determine a claim of victimisation under Section 27 Equality Act 2010. After discussion the following issues have been identified: whether the claimant has carried out a protected act. The claimant asserts that his claim to the employment tribunal against the second respondent under Case number 2200496/13 was a protected act, as it included a claim of discrimination. The second respondent denies that the claimant carried out a protected act, asserting that the claim was for unfair dismissal, unlawful deductions from wages and failure to pay holiday pay. If there was a protected act, whether the respondent carried out any of the treatment as identified below because the claimant had done a protected act:

- i. failed to provide a satisfactory reference;*
- ii. threatened the claimant, telling him not to contact the office again"*

EJ Porter then explained that the claimant was a litigant in person and gave him an opportunity to contact the Tribunal if he considered the notes of the Hearing did not accurately reflect the full extent of his claim. (Paragraph 18 of the notes.) She also ordered further information to be provided by 28 March 2017. (Order 2). In relation to the victimisation claim she ordered at paragraph 18.2 that the claimant inform the Tribunal and the respondent *"in relation to the claim of victimisation against the second respondent:*

2.1.1 confirmation that the protected act is the one noted at paragraph 16.1 above;

2.1.2 any other protected act;"

5. Although the claimant contacted the Tribunal in relation to some of the other orders made by Employment Judge Porter, he did not state that the EJ Porter was inaccurate in relation to her summary of the victimisation claim, neither did he write in to suggest any other protected act was relied upon.
6. The second respondent supplied a copy of the application case no 2200496.13.It is not a claim for discrimination. Accordingly it can not

amount to a protected act within the meaning of s27(1) (a) Equality Act 2010.

7. In his submissions the claimant referred to the 2 parts of s27 Equality Act 2010. It was unclear if he was seeking to rely on s27(1)(b). I am mindful that the claimant is a litigant in person.
8. However EJ Porter gave the claimant an opportunity to notify the Tribunal if he considered her notes did not accurately sum up his claim. In relation to victimisation complaint he did not do so. Neither did he comply with the Order at paragraph 18.2.2 to identify any other protected act. He said in opposing the strike out claim that he did not confirm that his previous claim case no 2200496.13 was a protected cct because he agreed with EJ Porters summary.
9. As EJ Porter noted a successful victimisation claim under s 27 Equality Act requires a protected act and an alleged detriment. The previous claim to Employment Tribunal case 2200496/13 relied upon by the claimant is not a protected act because it does not include a claim for discrimination. It is a claim for unfair dismissal, unlawful deduction from wages and failure to pay holiday pay.
10. Accordingly, without a valid protected act the claimant's claim for victimisation against the second respondent has no reasonable prospects of success and therefore I have struck it out.

[KMR]

Employment Judge Ross

28 April 2017

JUDGMENT SENT TO THE PARTIES ON

5 May 2017

FOR THE TRIBUNAL OFFICE