



EMPLOYMENT TRIBUNALS

Claimant: Ms E Rodrigues

Respondents: 1. The Governing Body of Stockport School
2. Mr Ian Irwin

JUDGMENT

The complaint of discrimination arising from disability contrary to section 15 Equality Act 2010 is struck out.

REASONS

1. At a preliminary hearing on 22 March 2017 the claimant (represented at that time by Mr Nolan of Merseyside Employment Law) was ordered to provide by 5 April 2017 a witness statement setting out all the facts on which she relies in support of her contention that she was a disabled person at the material time. That Order and further information was provided in writing on 27 March 2017. A link to the Secretary of State's Guidance on Matter to be Taken Into Account in Determining Questions Relating to the Definition of Disability (2011) was also provided.

2. The claimant provided some further particulars in April 2017 which touched on the disability issue but did not comply with the direction. A further preliminary hearing took place on 10 July 2017 at which the claimant was represented by her friend Mr Sousa. The complaint of direct disability discrimination was withdrawn and dismissed, but not the complaint of discrimination arising from disability. Mr Sousa confirmed that the claimant relies on a learning disability, not a physical disability. She was ordered to provide a witness statement about that disability by 18 August 2017. The written case management order was sent to the parties on 14 July 2017.

3. No statement was served. The Tribunal sent a reminder on 30 August seeking a reply by 6 September 2017. By email of 1 September 2017 to the respondent the claimant agreed to a medical examination but did not provide any factual details about her condition.

4. By letter of 8 September 2017 the respondent confirmed that no disability witness statement had been received.
5. By letter of 15 September 2017 the Tribunal warned the claimant that if she did not provide her disability witness statement by 22 September 2017 her case might be struck out.
6. By email of 22 September 2017 Mr Sousa responded on behalf of the claimant. He said there were no documents to disclose but that the claimant consented to a specialist examination. Once again no factual information was supplied.
7. By letter of 5 October 2017 the Tribunal explained that no documents were required. The statement simply required the claimant to explain how her learning disability affected her day to day activities while employed by the respondent. Time for provision of the statement was extended once again to 13 October 2017 with a second warning that the claim might be struck out if it was not provided
8. No disability witness statement was provided by close of business on 13 October 2017.
9. There cannot be a fair trial of the disability complaint if the claimant will not provide this information. The claim is struck out under rule 37(1)(c) because the claimant has failed to comply with the order of the Tribunal made on 22 March 2017.
10. The remaining complaints are not affected by the judgment and will proceed in accordance with the case management orders made on 10 July 2017, save that paragraphs 5-9 inclusive in Annex B fall away.
11. The hearing remains listed before a full Tribunal between **2-5 January 2018** inclusive.

Employment Judge Franey

17 October 2017

JUDGMENT AND REASONS SENT TO THE
PARTIES ON

25 October 2017

FOR THE TRIBUNAL OFFICE