



## EMPLOYMENT TRIBUNALS

**Miss E Williams**

**Claimant**

**-and-**

**Royal Mencap Society**

**Respondent**

## PRELIMINARY HEARING

**Heard at: London South Employment Tribunal (Croydon)**

**On: 31 October 2017**

**Before: Employment Judge John Crosfill**

**Appearance:**

**For the Claimant: Ms Sarah Forsyth**

**For the Respondent: Ms Georgina Leadbetter of Counsel**

## CASE MANAGEMENT ORDER

1. This matter was listed before me for determination of the Claimant's application to amend her claim. I have provided a separate judgment on that issue where I gave the Claimant permission to amend her claim to include a claim for national minimum wage. We agreed that, as the outcome of that claim is dependent on the outcome of the case of Royal Mencap Society v Ms Tomlinson-Blake, that aspect of the claim should be stayed pending the outcome of that appeal.
2. The claim for unfair dismissal is straightforward. We agreed that standard directions could be sat for trial. A number of witnesses may be called and we agreed a 2-day listing was appropriate. A date was found during the hearing.
3. I apologise for the delay in providing these case management orders. As a consequence of the delay I have truncated the time by which the various steps need to be taken. Given that the issues are straightforward I would hope that this causes no difficulty but, if it does, the parties should co-operate with each other and write to the Tribunal only if they are unable to agree.
4. The hearing dates are set out below.

## ORDERS

Made pursuant to the Employment Tribunal Rules 2013

### Stay

1. The Claimant's amended claim for National Minimum Wage is stayed pending the outcome of the decision of the Court of Appeal in Royal Mencap Society v Ms Tomlinson-Blake. The Respondent is directed to inform the Claimant and Tribunal of the outcome of that case and indicate (if known) whether any onward appeal is contemplated.

### 2. Disclosure and Inspection of Documents

3. No later than 8 January 2018 each party must send to each other party a copy of every document it has relevant to the claim for unfair dismissal.

### 4. Document Guidance

5. "Documents" includes letters, notes, emails, memos, diary entries, audio or visual recordings, text messages and any other legible records.

6. If hand written documents are being relied on a typescript must be provided by the party relying on them and inserted in the bundle of documents immediately after the hand-written document.

7. If a recording is being relied on a transcript must be prepared by the party relying on it. That typescript must be included in the bundle of documents and sent to any other party, together with a copy of the recording.

8. No documents or copy correspondence should be sent to the Tribunal unless a party is required to do so.

### Trial Bundles of Documents

9. No later than **15 January 2018** the Respondent shall send the Claimant a proposed index for the bundle of documents to be prepared for use at the tribunal hearing.

10. No later than **22 January 2018** the Claimant shall either agree the said draft index or in the event of disagreement prepare and send to the Respondent a supplementary index listing the documents she wishes to be included.

11. The Respondent shall prepare a consolidated bundle of copy documents.

11.1. The bundle shall not, without the consent of an Employment Judge, exceed 300 sides. Two-sided copying is encouraged.

11.2. The bundle shall only contain copies of relevant pages of documents a party intends to use at the Tribunal hearing.

11.3. All the documents, except any pleadings and Orders, must be in date order, with the oldest at the front.

- 11.4. Each page must be numbered.
  - 11.5. The bundle must have an index showing the date, description and page number of each document.
  - 11.6. The bundle must be held together so it opens flat.
  - 11.7. Witness statements must not be included in the bundle.
12. No later than **29 January 2018** the Respondent shall supply one hard copy of the bundle to the Claimant.
13. The Respondent shall bring 2 identical bundles of the copy documents to the Tribunal hearing.

### **Witness Statements**

14. Each party shall prepare a written statement for each witness (including the Claimant or Respondent who will give evidence personally) that it is intended will give evidence at the Tribunal hearing. Each witness statement must:
- 14.1. have page numbers, be typed single-sided with double line spacing with at least 2.5cm page margins;
  - 14.2. use a “standard” (e.g. Arial, Times New Roman or similar) size 12 font;
  - 14.3. contain all the evidence of the witness;
  - 14.4. be laid out in short consecutively numbered paragraphs;
  - 14.5. set out in chronological order, with dates, the facts which the witness can state;
  - 14.6. not contain matters irrelevant to the issues;
  - 14.7. refer by page number in the bundle of documents to any document mentioned in the statement;
  - 14.8. be signed and dated;
  - 14.9. not be contained in a bundle.
15. Each party shall ensure that there are three copies of each statement of their own witnesses available at the Tribunal hearing for the use of witnesses and the tribunal.

### **Evidence without a Witness Statement**

16. No evidence-in-chief may be given by a witness, in addition to that contained in the written statement of that witness, without the permission of the Tribunal.

17. No witness may be called by a party to give evidence at the Tribunal hearing, without the permission of the Tribunal, unless their written witness statement has been prepared and exchanged.

### **Simultaneous Exchange of Witness Statements**

18. On **19 February 2018**, there shall be a simultaneous exchange of witness statements by each party sending by email or first class recorded delivery post to the other/s one copy of each witness statement for each of the witnesses that party intends to call to give evidence at the Tribunal hearing.

### **Skeleton Arguments**

19. The parties are encouraged to prepare written skeleton arguments for use during closing submissions including if possible a chronology of the key events.

### **Updated schedule of loss**

20. On or before **28 February 2018** the Claimant shall serve on the Respondent an updated schedule of loss setting out the sums she claims and exhibiting any documents that establish any loss and any documents evidencing attempts to mitigate loss or earnings from any new employment.

### **List of issues and chronology**

21. On or before **28 February 2018** the parties shall agree a list of the factual and legal issues that require to be determined by the Tribunal together with a chronology of events. These documents shall be agreed if possible and where agreement is not possible should indicate the areas of agreement and disagreement.

### **Hearing Date**

22. The case will be listed for hearing of liability and remedy if appropriate before an employment judge sitting alone for 2 consecutive days at **Croydon Employment Tribunal, Montague Court, 101 London Rd, Croydon CR0 2RF on 7 & 8 March 2018**.

23. No postponement of the hearing date will be granted unless there are exceptional and unforeseen circumstances.

24. The parties are required to prepare and present their cases so as to complete all the evidence and submissions by 12:00noon on the second day. The balance of any hearing time is for the exclusive use of the Tribunal and or to deal with remedy if appropriate.

### **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.

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**Employment Judge Crosfill**

Dated 13 December 2017