



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

**Ms M Khan**

**v**

**University of Warwick**

**Heard at:** Birmingham

**On:** 26 March 2018

**Before:** Employment Judge Broughton

**Appearances:**

For Claimant: no appearance

Respondent: Ms A Reindorf, counsel

## JUDGMENT

The Claimant's claims are struck out under rule 37(1)(c) and (d) Employment Tribunal Rules of Procedure 2013.

The respondent's application for costs will be put in writing and sent to the tribunal and the claimant within 10 days.

The claimant should provide a detailed response and include full disclosure of her assets and income by 23 April 2018.

A costs hearing will be listed for 1 and 2 May 2018 with the parties only required to attend on day 1.

Employment Judge Broughton

26 March 2018

## Reasons

1. The claimant was sent a strike out warning by EJ Dimbylow on 14 March 2018. She has failed to respond and so this hearing was converted to hear the respondent's application for strike out to give the claimant a further opportunity to make her case.
2. The claimant failed to attend or to provide any explanation for her failure to do so or, indeed, to explain any of her failures to comply with tribunal orders or respond to correspondence from the tribunal or the respondent.
3. The claimant had previously failed to attend hearings in June 2017 and in January 2018.
4. She had failed to comply with an Unless Order made on 15 January 2018 to disclose recordings on which she claimed to rely.
5. The tribunal had received returned post from the address the claimant had provided. We had also received correspondence from the new occupier of that address confirming that the claimant had moved without providing a forwarding address.
6. The claimant was ordered to provide her new address by EJ Perry on 6 March 2018 but had failed to respond.
7. Correspondence of late has been by email to an address which the claimant is still using. The last response from her was on 31 January 2018 which was in purported compliance with a previous tribunal order indicating that she intended to rely on all documents disclosed by both parties.
8. That seems unlikely given that the respondent suggested there were 10 lever arch files of documents, the majority of which were not relevant to the issues in the case. It was their view that the claimant had not properly applied her mind to the relevance of documents and was, instead, unnecessarily and unreasonably, increasing the time and costs for all concerned.
9. The respondent suspected that the reason for the claimant's subsequent failures was because they had disclosed (in January 2018) a forensic report which indicated that an offensive racist post, which was an important subject of these proceedings, had actually been posted by the claimant after hacking into one of their key witness's accounts.
10. In any event the claimant had been ordered to exchange witness statements on 28 February 2018 and had failed to do so or to offer any explanation for such failure.
11. She had repeatedly failed to respond to correspondence from the tribunal and the respondent. She has repeatedly failed to actively pursue her case and failed, without cause, to comply with tribunal orders. The respondent would be severely prejudiced even if those failings were promptly rectified given the

proximity of the final hearing. The burden of proof is on the claimant in respect of all her claims. That is a burden she cannot possibly hope to meet without adducing witness evidence.

12. The claimant has had ample opportunity to make representations and has failed to do so.

13. Whilst reluctant to strike out discrimination and whistle-blowing claims, for all the reasons given, it seems to me to be the only possible outcome in the interests of justice. It is not fair for the respondent to be put to the further time and expense of defending these proceedings in all the circumstances.

14. It may well be that the claimant, in bringing these proceedings or in her conduct of the same, has acted in a way that is scandalous, vexatious or otherwise unreasonable. It was agreed, however, that this should be a matter for a separate hearing to give the claimant a further opportunity to respond. Accordingly, I made the directions given above.