



EMPLOYMENT TRIBUNALS

Claimant: Ms. H. Melville

Respondent: Santander UK Ltd

HELD AT: Liverpool

ON: 20 September 2018

BEFORE: Employment Judge T Vincent Ryan

REPRESENTATION:

Claimant: Ms. Melville represented herself (litigant in person)

Respondent: Mr. J. French, counsel

PRELIMINARY HEARING JUDGMENT

The judgment of the Tribunal is that:

1. The claimant withdrew the following claims and they are dismissed:
 - 1.1 The claim of victimisation where the claimant had alleged that the respondent failed to engage, either at all or constructively, with the ACAS Early Conciliation procedure;
 - 1.2 The claim of indirect discrimination in respect of the allegation relating to the respondent withholding pay while the claimant was absent from work on grounds of ill-health once she had exhausted her contractual right to sick pay;
 - 1.3 The claim of discrimination because of something arising from disability relating to the allegation that the respondent failed to contact the claimant about her grievance at a time when her line manager was on annual leave (without prejudice to the claimant's claim of victimisation, that the respondent failed to address her grievance conscientiously or at all).

- 2 The contested preliminary issue as to whether the claimant is a disabled person for the purposes of these proceedings is postponed to the final hearing.
- 3 The claimant's claims of disability discrimination were presented in time, measured from the last of a series of alleged acts of discrimination, and in any event, (including that the allegations comprising the alleged series, or any of them, are held to be unfounded), the time for presentation would have been extended on the principles of justice and equity until the date of presentation.
- 4 On the respondent's application the claimant's claim of constructive unfair dismissal which she based on assertion of the statutory right to receive itemised payslips, where she says that she resigned because they were not all provided or were late, is dismissed as having no reasonable prospect of success.
- 5 The following claims have little reasonable prospect of success and are the subjects of deposit orders made under Rule 39 ETs (Constitution & Rules of Procedure) Regs 2013:
 - 5.1 The claimant's claim of constructive unfair dismissal which she based on assertion of the statutory right to receive holiday pay has little reasonable prospect of success; having considered evidence of the claimant's means a deposit of £100 was ordered in respect of this claim;
 - 5.2 The claimant's allegation and claim that the respondent failed to provide her with the notes of a meeting held on 30th October 2017 and/or the opportunity to approve such notes retained by the respondent which she advances as claims of harassment and direct discrimination in relation to the protected characteristic of disability, and discrimination because of something arising from disability; having considered evidence of the claimant's means a deposit of £100 was ordered in respect of these claims, that sum to be forfeited only if all of these claims fail at the final hearing.
 - 5.3 The claimant's allegations and claim concerning the respondent's requests made of her for information concerning references from her previous employer(s) which she advances as a claim of harassment in relation to the protected characteristic of disability; having considered evidence of the claimant's means a deposit of £25 was ordered in respect of this claim.
 - 5.4 The claimant's assertion that the respondent ought to have paid her full pay during a period of absence from work following medical certification of fitness to work but when the claimant considered that her grievance ought to be resolved satisfactorily before she did so which she advances as claims of a failure on the part of the respondent to make reasonable adjustments and discrimination because of something arising from disability; having considered evidence of the claimant's means a deposit of £100 was ordered in respect of these

claims, that sum to be forfeited only if all of these claims fail at the final hearing.

- 6 Save as above the respondent's application that the claimant's claim of constructive unfair dismissal and various claims of disability discrimination have no reasonable prospect of success and ought to be struck out, or alternatively that the discrimination claims have little reasonable prospect of success and ought to be the subject of deposit orders fails and is dismissed.

Employment Judge T.V. Ryan

Date: 21.09.18

JUDGMENT SENT TO THE PARTIES ON

3 October 2018

FOR THE TRIBUNAL OFFICE

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing (and no such request was made) or a written request is presented by either party within 14 days of the sending of this written record of the decision.

[tvr]