



EMPLOYMENT TRIBUNALS

Claimant: Mr A Leslie

Respondent: Imperial College Healthcare NHS Trust

Heard at: London Central

On: 18, 19 & 22 Oct 2018

Before: Employment Judge H Grewal
Mr J Carroll and Mr T Robinson

Representation

Claimant: Mr G McKetty, Consultant

Respondent: Ms H Patterson, Counsel

JUDGMENT

The unanimous judgment of the Tribunal is that all claims are dismissed.

REASONS

1 In claim forms presented on 7 August 2017 and 9 November 2017 the Claimant complained of unfair dismissal, race and sex discrimination and having been subjected to detriments for having made protected disclosures.

2 The hearing of these claims commenced at 2 p.m. on 18 October 2018. The Tribunal read the relevant documents that afternoon and the following morning. The Tribunal agreed at the outset of the hearing to hear the evidence of Mark Busby (who had heard the grievance appeal) first on Friday afternoon because he was going to be away on annual leave the following week.

3 In the course of his cross-examination, Mr Busby was asked whether at the time of the appeal hearing he had known that the Claimant had started the Early Conciliation

process. He replied that he did not. He was then asked whether at the time of the appeal hearing he knew that they had been a preliminary hearing at the Tribunal the previous day. He replied that he did not. The Claimant's representative did not challenge that evidence.

4 On the morning of 22 October 2018 the Claimant applied for the response to be struck out on the grounds that Mr Busby had lied when he had denied knowledge of the Tribunal proceedings which amounted to the Respondent conducting proceedings in a scandalous, vexatious or otherwise manner. The application was made in writing and in support of it the Claimant produced documents that showed that a letter sent by him to the Tribunal on 12 September had been emailed to Mr Busby on 13 September 2017. If the Tribunal was not prepared to strike out the response, he asked for the matter to be adjourned so that he could appeal to the EAT.

5 The Tribunal refused his application to strike out the response. We concluded that an allegation that a witness had lied was not an appropriate reason to strike out a response. The appropriate way to deal with that was for the Claimant to adduce the evidence upon which he relied to support that assertion and to make submissions at the end about the reliability and credibility of Mr Busby having regard to that evidence. We also refused to adjourn the hearing to enable the Claimant to appeal to the EAT. It was stated many times that the Claimant would be at a disadvantage if the hearing were to proceed. I asked how the Claimant would be disadvantaged and the Claimant was not able to demonstrate any disadvantage.

6 We told the parties that the case would proceed and if the Claimant chose not to give evidence (as he was due to do), we would dismiss the case. We offered the Claimant and his representative a short adjournment to discuss how they wanted to proceed. They both declined that offer and stated that the Claimant was not prepared to continue with the hearing.

7 As the Claimant actively chose not to participate in the Tribunal proceedings and did not adduce any evidence to support his claims, we dismissed his claims.

Employment Judge Grewal

Date 22 October 2018

JUDGMENT & REASONS SENT TO THE PARTIES ON

22 October 2018

.....
FOR THE TRIBUNAL OFFICE