



EMPLOYMENT TRIBUNALS

Claimant	Mr Z Arghawan
Respondents	Hestia Housing & Support (1) Ms Y Begum (2) Mr J Alawode (3) Ms A Fobie (4) Ms K Senathirajah (5)

JUDGMENT

The claim is struck out against all respondents.

REASONS

1. The claimant attended a preliminary hearing before me on 29 January 2018 at which it was identified that he brought claims of direct race discrimination and harassment related to race, direct sexual orientation discrimination and harassment related to sexual orientation, direct religion and belief discrimination and harassment related to religion and belief, unpaid wages and holiday pay.
2. A number of case management orders were made including a requirement for the claimant on or before 26 February 2018 to set out in writing and send to the respondents and the Tribunal further particulars under each of those headings as well as a schedule of loss. That order was signed on 30 January 2018 and sent to the parties on 13 February 2018.
3. On 26 February 2018 the claimant emailed the Tribunal, copying the respondents, requesting an extension of time for providing the further particulars due to his health condition and ongoing treatment. He requested 'another few days acquiescence'.
4. On my instruction, on 6 March 2018 the Tribunal wrote to the claimant granting an extension until 12 March 2018.
5. Solicitors acting for the first respondent wrote to the Tribunal, with a copy to the claimant, on 23 March 2018 stating that the claimant had failed to comply

with the order within that extended timeframe and applied for his claim to be struck out or in the alternative for an unless order to be issued.

6. On 3 April 2018 the claimant emailed the Tribunal confirming that he had been unable to respond earlier as his grandmother had passed away, he was in in the United States and would be returning to London on 29 April 2018. He attached a copy of his return ticket and requested to be allowed 'enough time to grieve'.
7. Again on my instruction the Tribunal wrote to the claimant on 27 April 2018 extending time for compliance to 14 May 2018. It was also indicated that no further requests for extensions of time were expected.
8. On 22 May 2018 solicitors acting for the first respondent informed the Tribunal that the claimant had failed to comply with the extended time limit and that this meant the other case management orders, including finalising documents and witness statements, could not be dealt with. They also pointed out that the first respondent is a charity and was incurring unnecessary costs in contacting the Tribunal in relation to non-compliance. They again requested the claim be struck out or in the alternative, an unless order.
9. On my instruction an unless order was issued on 28 June 2018 stating that unless the claimant complied with paragraphs 6-12 of the order dated 30 January 2018 by 4pm on 12 July 2018, the claim would be struck out without further order.
10. On 12 July 2018 at 4:59 pm, the claimant emailed the Tribunal apologising for his failure to respond to the unless order and giving details of his recent physical and mental medical conditions; these included reports of suicide attempts and self-harm. He requested a further extension to the end of the month. The respondents were asked on 13 July 2018 for their comments by 20 July 2018. The responses received indicated that the respondents pursued their application for the claim to be struck out as 'tremendous time and expense' had been incurred and finality was sought.
11. On my instruction the Tribunal wrote to the claimant on 26 July 2018 giving him 'one final chance to comply with the Unless Order by 4.00pm on Friday 03 August 2018'.
12. On 3 August 2018 an email was received at the Tribunal from the claimant, sent at 4.05pm. This stated that documents were attached as evidence of compliance with the unless order. It also said 'Further evidences and compliance/more detailed information will follow after this email.'
13. On 7 August 2018 solicitors for the first respondent applied for a reconsideration of my decision on 26 July 2018 to extend time for the claimant to comply with the unless order. In the alternative, they submitted that the claimant had still not complied with the unless order as he had submitted documents at 4.05pm on 3 August 2018.

14. The first respondent, with a copy to the claimant and other respondents, was notified on 15 August 2018 by the Tribunal, on the instruction of the Regional Employment Judge, that I was away until early October and the application for a reconsideration would be considered on my return. (In light of this Judgment, I conclude that that application is no longer required. If the first respondent disagrees it should confirm that and why within 7 days of receipt of this Judgment.) The parties were also invited to supply any relevant information regarding compliance with the order and the claimant was asked to clarify the timing of his email of 3 August 2018. No response to that request has been received by the Tribunal.

Conclusion

15. The claimant has failed to comply with the unless order dated 28 June 2018 within its extended time limit. His email was sent to the Tribunal at 4.05pm on 3 August 2018. The deadline for receipt was 4.00pm. Furthermore, the documents attached to the email did not comply with the requirements set out at paragraphs 6-12 of the order dated 30 January 2018. He simply attached a letter from the first respondent to him dated 10 February 2017 and various payslips.

16. His claim is accordingly struck out and therefore the hearing listed for 01-05 July and 08-12 July 2019 is vacated.

Employment Judge K Andrews
Dated 30 October 2018