



# EMPLOYMENT TRIBUNALS

Claimant: Miss A K Sahota

Respondent: Boots Management Services Limited

Heard at: Nottingham On: Monday 7 August 2017

Before: Employment Judge Hutchinson (sitting alone)

Representatives

Claimant: Mr C Johnstone, Legal Representative

Respondent: Ms P Leonard, Counsel

## RECORD OF AN ATTENDED PRELIMINARY HEARING JUDGMENT

The Employment Judge gave judgment as follows:-

1. The claim of non payment of wages is dismissed on withdrawal by the Claimant.
2. The claims of unfair dismissal, breach of contract, victimisation and disability discrimination are struck out.
3. The claim of non payment of holiday pay will proceed.

## REASONS

Background to this hearing

1. The Claimant presented her claim to the Employment Tribunal on 9 January 2017. The claim was accompanied by an early conciliation certificate.

The certificate records that the date of receipt by ACAS of the early conciliation notification was 9 November 2016. The date of issue by ACAS of the certificate was 30 November 2016. The Claimants

employment ended on 9 November 2016. The claim of unfair dismissal is in time but some of the allegations made by the Claimant in her ET1 referred to matters as long ago as 2009.

2. The discrimination claims are on the protected characteristic of disability. The matters relied on are set out in paragraph 41, namely:-
  - 2.1 Direct.
  - 2.2 Indirect.
  - 2.3 Harassment.
3. The claim also refers to complaints of:-
  - Unfair constructive dismissal
  - Unlawful deduction of wages
  - Contravention of Section 10 of the Employment Rights Act 1999 (right to be accompanied)
4. Although the claim for holiday pay box was ticked no details of the holiday pay claim were provided.
5. The claim form had been prepared by Mr Johnstone. The particulars of claim were badly drafted as described by Employment Judge Evans in his case management discussion held on 21 March 2017. The details of the disability discrimination claims brought were not clear. He pointed out that no details had been provided of what holiday pay was due or why the Claimant was owed arrears of pay.
6. Mr Johnstone describes himself as a legal representative but has no legal qualifications. He is not a solicitor or barrister or a member of any professional body. The name of his company is One Assist Legal Services.
7. The Claimant had been employed by the Respondents as a Pharmacy Dispenser until her resignation on 9 November 2016.
8. The claim had been accepted and a case management hearing was listed for 21 March 2017. The papers were served on the Respondents who filed their response on 23 February 2017.
9. In their ET3 they explained their case. It was that on or around 27 October 2016 their store manager Ms Reshma Barot had been alerted to allegations that clearance products had gone missing from the store. The Claimant and her colleague were responsible for this stock. They told Ms Barot that they had purchased the stock. They were asked for proof that they had done so but were unable to produce receipts.
10. The Claimant attended an investigatory interview on 31 October 2016. She said that she was aware of the correct clearance produce process and still could not find any receipt. She was suspended.

11. Further investigations were conducted and the Claimant was invited to attend a disciplinary hearing on 4 November 2016. She was advised of her right to be accompanied and sent a copy of the investigation documents.

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12. The Claimant then submitted her grievance on 3 November 2016 alleging disability discrimination.

13. It is acknowledged by the Respondent's the Claimant had raised grievances in the past against her manager and in particular in: ■ March 2013

- June 2014
- December 2014

The grievances were about the behaviour of her line manager Mrs Kalpna Kakad who, she said, was bullying and harassing her.

14. The Claimant had asked for the disciplinary hearing be postponed pending the outcome of her grievance. It was said by the Respondent's that this was the reason for the grievance, ie to have the disciplinary hearing postponed. The Claimant's disciplinary hearing was postponed and it was said by the Respondent's that they would deal with the Claimant's grievance as part of the disciplinary hearing as the complaints related to that process.

15. The Claimant's colleague had attended a disciplinary hearing on 4 November 2016 and was summarily dismissed for gross misconduct.

16. The Claimant then resigned herself without notice on 9 November 2016 and without attending any disciplinary hearing.

17. The Respondent's neither admit or deny the Claimant suffers from a disability but in their ET3 said that the allegations of discrimination were out of time and misconceived. It was said that the Claimant had not identified a provision, criterion or practice ("PCP"), which put or would put the Claimant and persons who shared her alleged disability at a particular disadvantage when compared with persons who do not share the Claimant's disability.

18. It was also pointed out that the Claimant had failed to particularise her claim for wages and/or holiday pay.

19. My colleague Employment Judge Evans conducted a case management hearing on 21 March 2017. He was concerned that the particulars of claim were "badly drafted" and spent a considerable time with the Claimant's Representative discussing what was required. He therefore ordered the Claimant to provide further and better particulars by 28 March 2017.

20. At pages 38, 39 and 40 of the bundle Employment Judge Evans set out exactly what was required in those further and better particulars.

21. The Claimant did not file the particulars on time. Instead on 28 March, Mr Johnstone made an application to give him further time to deal with the request for further particulars. Eventually on 4 April the Claimant provided what was described as a Scott Schedule which is at pages 43 to 49. The Scott Schedule does not provide the details requested and explained by Employment Judge Evans. It also bears little resemblance to the ETI making a number of fresh allegations that had not been mentioned at all in the original claim form. It makes new claims of harassment and failure to make reasonable adjustment. Whilst not specified in the schedule Mr Johnstone also says to me that some of these matters amount to discrimination arising from disability under Section 15 of the Equality Act 2010 (EA) but he has failed to refer to this type of claim at all in his Scott Schedule.

22. In respect of his claims of direct discrimination he does not refer to any comparator, hypothetical or actual and does not explain how the treatment of the Claimant was said to be less favourable treatment rather than merely unfavourable treatment.

23. In respect of his indirect discrimination he does not identify any provision, criterion or practice which is said to put persons having the same disability as the Claimant at a particular disadvantage when compared with other persons. He does not identify any disadvantage or explain how the provision, criterion or practice puts or would put persons sharing the Claimant's disability at that disadvantage and indeed explain how the Claimant is put at that disadvantage.

24. Similar comments apply in respect of the victimisation element where the Claimant's representative has not dealt with any of the matters that he was asked to deal with in Employment Judge Evans's case management order.

25. It can be seen from the discussions that Employment Judge Evans specifically raised with Mr Johnstone the issue of whether the Claimant was making claims of failure to make reasonable adjustments and discrimination arising from disability and Mr Johnstone confirmed that the Claimant did not pursue such claims.

26. Having received the Scott Schedule the Respondent's solicitor wrote to the Tribunal about the non compliance with the order of Employment Judge Evans and the matter was referred to my colleague Employment Judge Britton. He directed as follows:

"The Claimant's further and better particulars do not comply with the orders of Employment Judge Evans. Section 13 is not fully explained or Section 19 and the concept of the wider PCP. Also how can Section 13 or constructive unfair dismissal succeed if the Claimant's alleged accomplice was dismissed?"

Accordingly, I order an attended Preliminary Hearing with the following agenda:

To consider whether all or some of the claims, including constructive unfair dismissal, should be dismissed as having no

reasonable prospect of success, or a deposit ordered of up to E 1,000 per claim, then having only little reasonable prospect of success.

27. On 27 July 2017 the Claimant's representative wrote to the Tribunal alleging:

"yet a further act of discrimination by the Respondent,"

28. It related to two alleged incidents that took place on 21 April 2017 and 22 July 2017. It said that employees of the Respondent had attempted to intimidate the Claimant's daughter. The first incident (according to the statement —of the Claimant's daughter) involved:

"my mother's former manager Reshma was passing my place of work...I saw Reshma stop when she saw me, she then gave me an uncomfortable look, turned and walked into the café where I work." It went on to say:

"She then approached me and in a very sarcastic manner proceeded to enquire as to my family's wellbeing." Then finally;

"Reshma then proceeded. ...to tell me how great my mother's place of employment was doing now, g"

All this was said to amount to intimidation. The second incident simply claims that Reshma Boot entered the premises where her daughter worked and did "attempt to speak to the daughter." No mention is made as to what was said.

The letter from Mr Johnstone went on to say;

"We wish to also formally provide notice with regards to our submitting of a strike out application, as the defending of this claim has been nothing short of scandalous at the very least. The acquiescence of the seniors for the Respondent, absolutely and unequivocally drives the ethos of it being perfectly okay to cause pain and harm to the Claimant and/or her family.."

29. A response to that letter was sent in the direction of my colleague Employment Judge Clark who made the comment:

"It is not clear whether the Claimant was intending to make any application within the letter dated 27 July 2017. Unless any clear application is made, the correspondence would be simply be placed on the Tribunal's file."

30. That letter crossed with the Claimant's Representative's further letter of 31 July 2017 which accompanied an application to strike out the Respondent's:

"In their defending of the above cited case in accordance with the Rule 37(b) of the Employment Tribunal Rules of Procedure 2014."

31. This letter referred to the 2 incidents involving the Claimant's daughter. It said that the daughter had been upset by the incidents and referred to the Respondent's:

"Absolute disregard for any form of compassion and/or care towards the Claimant, whom they have conceded suffers from a multitude of psychological disabilities."

32. The grounds for making the application to strike out the response were that the defending of the case had been "scandalous and unreasonable".

### The Hearing Today

33. At the commencement of the hearing I explained to the parties that I would consider:-

33.1 The Claimant's application to strike out the response on the grounds of the alleged scandalous and unreasonable conduct of the Respondent's.

33.2 Whether I should strike out any of the Claimant's claims also under Rule 37 of the Employment Tribunal Rules of Procedure on the grounds that:-

33.2.1 The claims were scandalous or vexatious or had no reasonable prospect of success.

33.2.2 The manner in which the proceedings had been conducted.

33.2.3 Non compliance with Tribunal orders.

33.2.4 Not actively pursuing the claims.

34. I would then only go on to consider making a deposit order if I was satisfied that the claim should proceed.
35. The Respondent's had provided me with a skeleton argument in accordance with Employment Judge Britton's directions. Mr Johnstone provided written submissions dated 4 August 2017. .
36. I also heard oral representations from Ms Leonard and Mr Johnstone.
37. In his submissions to me Mr Johnstone withdrew certain of the allegations that were contained in his Scott Schedule, namely those numbered 1 to 10, 18, 19 and 29. He said that in respect of allegation number 24 it was not a victimisation claim and allegation 26 was not direct disability discrimination and 27 was only direct discrimination, harassment and a fundamental breach of contract. The claim of failure to make reasonable adjustments in respect of that allegation was withdrawn.

38. I should explain that Mr Johnstone's Scott Schedule was not numbered but I numbered his allegation at pages 43 to 49 of the bundle in chronological order and it amounted to some 30 allegations. We also discussed the issue of holiday pay. He had not particularised this claim but had calculated that the Claimant was due 21.5 days holiday and said that she had not taken any holidays during this period. He also alleged that she was paid no holiday pay at the termination of her employment. This was denied by the Respondent's. He had not produced any evidence in respect of the holiday pay claim or indeed the payslips which would have shown if she had received any payment.
39. He confirmed to me that there was no claim for wages and therefore that claim was withdrawn.
40. Despite what he had said to Employment Judge Evans, Mr Johnstone was saying to me that he wished to pursue claims of failure to make reasonable adjustments and discrimination arising from disability.
41. In respect of his claim for failure to make reasonable adjustments he was not able to identify any PCP or physical feature of the Respondent's premises said to have put the Claimant at a substantial disadvantage compared with persons who were not disabled. He was not able to explain to me what that disadvantage was or identify any reasonable steps the Respondent's should have taken to avoid the PCP or physical feature having that disadvantage and how those steps would have avoided it.
42. In respect of the discrimination arising from disability he wasn't able to identify the factor arising from the Claimant's disability which was said to have given rise to the unfavourable treatment or how the factor arises from the disability. He was also not able to explain why the Claimant believed that the unfavourable treatment was because of that factor.
43. In respect of the complaint of direct discrimination he was not able to provide me with any details of any comparators or explain why he said that the treatment was less favourable treatment rather than simply unfavourable treatment.
44. In respect of the victimisation claim the protected acts amounted to complaints about her treatment. He wasn't able to identify anything that amounted to making an allegation whether or not express that the Respondent's or another person had contravened the Equality Act 2010.
45. In respect of the indirect discrimination claim he was again unable to identify any PCP that he relied on which was discriminatory in relation to the characteristic of the Claimant's disability.

## The Law Relating to Strike Outs

46. Rule 37 of the Employment Tribunal Rules of Procedure 2013 provides:

"(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds:-

- (a) that it is scandalous or vexatious or has no reasonable prospect of success;
  - (b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;
  - (c) for non-compliance with any of these Rules or with an order of the Tribunal;
  - (d) that it has not been actively pursued;
  - (e) that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim or response (or the part to be struck out)."
47. I acknowledge that special considerations arise if I consider striking out a claim of discrimination on the grounds that it has no reasonable prospect of success. I referred myself to the leading cases of Anyanwu and another v Southbank Students Union and another [2001] ICR 391 and Ezsias v North Glamorgan NHS Trust [2007] ICR 1126.
48. I realise the importance of not striking out discrimination claims except in the most obvious cases as they are generally fact sensitive and require full examination to make a proper determination. I must also be careful not to strike out a case where the central facts are in dispute.
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49. In respect of the conduct of a party's Representative and in this case Mr Johnstone I referred myself to the case of Bennett v Southwark London Borough Council [2002] ICR 881.
50. I hasten to add that I am not saying that the Claimant's Representative's behaviour has been scandalous or vexatious, simply unreasonable. I have to consider whether the conduct of the Claimant's Representative make it impossible for a fair trial to continue and decide whether striking out is a necessary, proportionate and appropriate response to the situation.



51 . In coming to my conclusions I have also considered the law relating to the various aspects of the claims made in this case.

### Constructive Unfair Dismissal and Breach of Contract

52. The claim of unfair dismissal is made under Section 94 of the Employment Rights Act 1996. Section 95 provides:

"Circumstances in which an employee is dismissed:-

1.For the purposes of this part an employee is dismissed by his employer if (and, subject to subsection (2). .. , only ifs):-

(c) the employee terminates the contract under which he is employed (with or without notice) in circumstances which he is entitled to terminate it without notice by reason of the employer's conduct."

53. Following the guidance of the leading case of *Western Excavating v Sharp* [1978] ICR 221 it is for the Claimant to establish that:-

- 53.1 That the Respondent's have committed a fundamental breach of the Claimant's contract.
- 53.2 That the Claimant resigned because of the breach.
- 53.3 The Claimant did not wait too long and affirm the contract.

For the Claimant to be successful with her claim of breach of contract in respect of her notice pay she will have to show that she was entitled to resign by reason of the Employers conduct. The *Western Excavating* test applies to that claim therefore.

### Direct Discrimination

54. This claim is made under Section 13 of the Equality Act 2010 which provides:

"(1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others."

55. In such a claim it is not sufficient for the Claimant to show that the treatment is unfavourable treatment but that it is -less favourable treatment. A comparator must be identified whose relevant circumstances are the same or not materially different from the Claimant's. If a hypothetical comparator is relied upon the Claimant must identify all facts and matters relied on in support of the contention that he or she would have been treated more favourably than the Claimant. It must also be established that the reason for the Claimant's treatment was because of her disability.

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## Indirect Discrimination

56. This claim is made under Section 19 of the Equality Act 2010 which provides:

"(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if:-

- (a) A applies, or would apply, it to persons with whom B does not share the characteristic,
- (b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,
- (c) it puts, or would put, B at that disadvantage, and
- (d) A cannot show it to be a proportionate means of achieving a legitimate aim."

57. Hence, the Claimant must identify the provision, criterion or practice which is said to put persons having the same disability of the Claimant at a particular disadvantage when compared with other persons. She must identify that disadvantage and explain how the provision, criterion or practice puts or would put persons sharing the Claimant's disability at that disadvantage and explain how the Claimant is put at that disadvantage.

## Victimisation

58. That claim is made under Section 27 of the Equality Act 2010 which provides:

"(1) A person (A) victimises another person (B) if A subjects B to a detriment because:-

- (a) B does a protected act, or
- (b) A believes that B has done, or may do, a protected act.

(2) Each of the following is a protected act:bringing proceedings under this Act;

- (a) giving evidence or information in connection with proceedings under this Act;
- (b) doing any other thing for the purposes of or in connection with this Act;

- (d) making an allegation (whether or not express) that A or another person has contravened this Act."

59. The Claimant therefore must identify first of all the protected act. As she has never been involved in proceedings under the Equality Act before, it must be something done for the purposes of or in connection with the act or that she has alleged expressly or by implication that the Respondent's or some other person has contravened the act. She must then go on to explain the detriment that she has been subjected to as a result of doing the protected act and provide details of the matters she relies on in support of her contention that she was subject to the detriment because she had done the protected act.

## My Conclusions

### The Claimant's Claim for Strike Out

60. Having considered the details of the application dated 31 July 2017 from the Claimant's Representative, the written submissions of Mr Johnstone and heard Mr Johnstone's submissions I am satisfied that there are no grounds for striking out the Respondent's response under Rule 37 of the Employment Tribunal Rules of Procedure 2013. The matters complained of amount to two incidents, namely:-

- 60.1 That on 21 April 2017 the Claimant's former manager Reshma Bott entered some premises where the Claimant's 17 year old daughter works. That is the extent apparently of what Ms Bott did.
- 60.2 On 22 July Ms Bott again entered the work place of the Claimant's daughter.

61. I have seen an unsigned statement of Narissha Yelayna Patel who is the daughter. The allegation refers to giving Ms Patel "an uncomfortable look" and enquiring as to her and her family's well being.

62. In respect of the incident alleged to have taken place on 22 July it was simply entering her daughter's work place.

63. I am asked by Mr Johnstone to regard this as scandalous and unreasonable behaviour. It clearly is not. His application to strike the Respondent's case out is therefore refused.

### The Respondent's Claims for Strike Out

#### Constructive Unfair Dismissal and Breach of Contract

64. I am satisfied that the Respondent's claim for constructive dismissal and breach of contract should be struck out because the claims have no reasonable prospect of success.

65. The Claimant in this case resigned on 9 November 2016 when she was subject to disciplinary proceedings for gross misconduct, namely that she had removed certain items from the store where she worked without purchasing them and at an investigatory meeting had been unable to provide a

satisfactory explanation. This was confirmed in the letter to the Claimant of 1 November at page 395.

66. All of the Respondent's employees are aware that the Respondent has strict security rules and the disciplinary policy makes it clear that breach of these rules and theft amount to gross misconduct. The Claimant had signed a copy of the Respondent's policy.

67. It is not disputed, and at the investigatory meeting the Claimant admitted, that she and another colleague had taken products and said that they had paid for them. In the investigatory meeting the Claimant admitted to having not adhered to the till procedures when allegedly purchasing this reduced price stock. She had been unable to produce any receipt for the products.

68. It is further not in dispute that the Claimant's colleague who did attend a disciplinary meeting on 4 November 2016 was dismissed for gross misconduct, namely theft.

69. The Claimant had not attended the disciplinary hearing planned on 4 November 2016 and had with the assistance of Mr Johnstone presented a grievance on the day before the hearing alleging discrimination.

70. I have seen the letter of resignation dated 9 November 2016. I am told that the letter was drafted by Mr Johnstone. It is clearly in his style. He refers to a loss of trust and confidence and refers to:

"Ill treatment which I believe to be unlawfully discriminatory over a period of time by multiple officers of the company."

71. I have seen in the bundle of documents examples of the previous grievances raised by the Claimant which are many. None of them relate to discrimination.

72. The first allegation of disability discrimination is in the grievance letter prepared by Mr Johnstone and submitted on 3 November 2016. There is no evidence in the documents presented to me of any allegations of discrimination on the grounds of her disability.

73. I am satisfied that the claims of constructive unfair dismissal and breach of contract have no reasonable prospect of success and will fail. The reason for her resignation was clearly to avoid the same fate as her colleague.

### Direct and Indirect Discrimination

74. I am satisfied that the claims of discrimination on grounds of her disability are both historic and vague.

75. Despite being given a number of opportunities to do so the Claimant has:-

75.1 Failed to provide any comparators or details of a hypothetical comparator in respect of her claim of direct discrimination.

75.2 In respect of the claim of indirect discrimination the Claimant has failed to identify any PCP.

75.3 In respect of her allegation that she has suffered direct discrimination she has failed to say how she was treated less favourably rather than unfavourably.

ii

76. I am therefore satisfied that I should dismiss the claims of direct and indirect discrimination because:-

76.1 The claims are out of time and it is unlikely that the Claimant will be allowed to proceed on a just and equitable extension of time and therefore the Tribunal will not have jurisdiction to deal with the claims.

76.2 The claims are so weak they have no reasonable prospect of success.

76.3 The Claimant has not complied with an order of the Tribunal that she should provide further and better particulars ordered by my colleague Employment Judge Evans.

### Victimisation Claim

77. I am satisfied that the claims of victimisation are historic and are out of time. It is unlikely that the Tribunal will allow the claims to proceed on the basis that it would be just and equitable to extend the time.

78. The claims have no reasonable prospect of success because the Claimant has failed to provide any details of matters which could amount to a protected act, i.e. that she had complained in some way about a breach of the act prior to her grievance on 3 December 2016 which of course post dates any of the acts she complains of.

79, Simply making a complaint and saying that you are suffering from a disability is not sufficient to establish that the Claimant has committed a protected act.

80. Again Employment Judge Evans had made an order that the Claimant should provide further particulars and the Claimant's Representative who is an "Employment Law Specialist' has failed to comply with that order.

81 .In these circumstances I am therefore bound to dismiss those claims.

### Other Claims

82. Mr Johnstone sought to add further claims at a very late stage namely in his Scott Schedule making allegations of failure to make reasonable adjustments and discrimination arising from disability. This was despite informing Mr Evans that he definitely did not wish to proceed with such claims on behalf of the Claimant. He has not applied to amend the claim at all and if he had applied his application would have failed. Having held himself out as a specialist in this field it is

entirely unacceptable to say to an Employment Judge that you are not going to make a particular claim and then try to do so.

83. In making my decision to strike out the claims I do not do so lightly. I have considered the Claimant's claim taken at its highest and I have it in mind the overriding objective referred to in Rule 2 of the Employment Tribunal Rules of Procedure 2013. If this claim were allowed to proceed it would undoubtedly put the parties and the Tribunal to considerable expense in dealing with a claim, which on the papers and having heard submissions, has no merit.

84. I am also satisfied that the manner in which these proceedings have been conducted has been unreasonable. As I have said the Claimant's Representative holds himself out as an Employment Specialist and a Legal Expert. He provided to the Tribunal a "badly drafted" ETI and a Scott Schedule that was inadequate and did not deal with the orders made by Employment Judge Evans. He has taken a third opportunity of trying to provide further and better particulars of claims but has still failed to identify the legal grounds for establishing his client's case. I am satisfied that in the circumstances I should strike out all the claims with the exception of the claim for holiday pay.

### The Holiday Pay Claim

85. I did seriously consider striking out the holiday pay claim because the Claimant had until today failed to particularise it. I have though decided to allow that claim to proceed. It is agreed between the parties that the holiday year runs from 1 April to 31 March and the Claimant resigned on 9 November 2016. In that period the Claimant accrued 21.5 days of holiday. Her claim is that she had not taken any holiday during this period and that she had been paid no holiday pay at the termination of her employment. The Respondent's deny these two facts saying that the Claimant had taken holiday and she was made a payment at the termination of her employment. This should be decided at a hearing.

### Listing the Hearing for the Holiday Pay

86. The holiday pay claim will be heard by an Employment Judge sitting alone at the Tribunal Hearing Centre, 50 Carrington Street, Nottingham NG1 7FG on Thursday 5 October 2017 at 10 am. It has been given a time allocation of 3 hours.

## ORDERS

Made pursuant to the Employment Tribunal Rules 2013

1. The Claimant and the Respondent shall send each other a list of any documents they wish to refer to at the hearing or which they believe are relevant to the case. The Respondent then shall prepare sufficient copies of the documents for the hearing. The Respondent shall provide to the Claimant a bundle of the agreed documents by 29 August 2017.

Case No:  
2600101/2017

2. The Respondent shall provide two copies of the bundle for the Tribunal at the hearing by 9.30 am on the day of the hearing.
3. The Claimant and the Respondent shall prepare full written statements of the evidence they and their witnesses intend to give at the hearing. No additional witness evidence may be allowed at the hearing without the permission of the Tribunal. The witness statements shall have numbered paragraphs. The parties will send the written statements of their witnesses to each other by 15 September 2017.
4. The parties will provide 2 copies of their witness statements for use at the Tribunal by 9.30 am on the morning of the hearing.

### 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 or her own initiative.

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Employment Judge Hutchinson

Date

*September*

JUDGMENT and ORDERS SENT TO THE PARTIES ON

*14/9/17*