



EMPLOYMENT TRIBUNALS

Claimant: Ms J Thompson

Respondent: Home Office

HELD AT: Manchester

ON: 7 December 2018

BEFORE: Employment Judge Franey (sitting alone)

REPRESENTATION:

Claimant: Did not attend

Respondent: Mr A Williams (Counsel)

JUDGMENT

With effect from **4pm on Friday 25 January 2019** this case will without further order be struck out on the ground that it has not been actively pursued **unless** before that time the claimant or her representative contacts the Tribunal in writing (by email or letter) to withdraw the claim or to confirm that it is to be pursued.

REASONS

1. This case was listed for a public preliminary hearing at 10am to determine whether it had been presented out of time. At 10am the respondent's representative was present but neither the claimant nor her representative Mr Mayor had attended.
2. The Tribunal's clerk telephoned Mr Mayor. He said he understood the claimant had withdrawn her claim by email some time ago. He said she had started a new job. There was no answer when the clerk rang the claimant's number.
3. Rule 51 empowers the Tribunal to dismiss a claim when it is withdrawn in writing or during a hearing. Neither had happened here. There was no written withdrawal on the Tribunal file. I could not dismiss it on withdrawal under rule 52.

4. At the start of the hearing I discussed with Mr Williams the appropriate course of action. Following that discussion I decided upon the judgment set out above, subject to the postscript below. A claim which is not actively pursued can be struck out under rule 37.

5. This leaves the claimant and her representative with three options.

6. The first option is to do nothing. The judgment will take effect on 25 January 2019 and the case will be at an end.

7. The second option is to withdraw the claim in writing before 4pm on 25 January 2019. It will then be dismissed upon withdrawal.

8. The third option is to inform the Tribunal in writing before the deadline that the claim is to be pursued. A new date for the time limit hearing will then be set.

9. I asked Mr Williams if he was instructed to seek an order requiring the claimant to pay the legal costs incurred by the respondent for today's hearing. He said he had no instructions but it was possible such an application might be made. Pragmatically, however, he thought that the respondent was likely to seek costs only if the claimant pursued the third option – seeking to carry on with the case. It is unlikely that costs will be sought if the claimant pursues option one or two. Costs can be awarded if there has been unreasonable conduct by the other side. If any such application is made the claimant would have a chance to respond to it before the Tribunal made a decision.

Postscript

10. At the hearing the intention was to make the deadline in the judgment Friday 4 January 2019. I signed the judgment on 7 December 2018. Unfortunately, due to administrative delay it had still not been promulgated by 7 January 2019. I therefore amended the date so as to give the claimant a fair chance to respond.

Employment Judge Franey

7 January 2019

JUDGMENT AND REASONS SENT TO THE PARTIES ON

7 January 2019

FOR THE TRIBUNAL OFFICE

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