

mf



THE EMPLOYMENT TRIBUNALS

Claimant: Miss Sinead Terrelonge

Respondent: (1) A Share & Sons Limited t/a SCS
(2) Ruhel Ahmed

Heard at: East London Hearing Centre

On: 24 January 2019

Before: Employment Judge Burgher

Representation

Claimant: Did not attend

Respondent: Mr M McKeever

PRELIMINARY HEARING JUDGMENT

1 The matter was listed before me to consider striking out the Claimant's claim on the basis that the Claimant has not complied with the orders of the Tribunal and/or that the claim is not being actively pursued.

2 Rule 37 of the 2013 Employment Tribunal rules state:

- (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).*
- (2) *A claim or response may not be struck out unless the party in question has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.*
- (3) *Where a response is struck out, the effect shall be as if no response had been presented, as set out in rule 21 above.*

3 On 14 January 2019 the Claimant was sent a Strike Out Warning letter issued by Employment Judge Gilbert stating that consideration was being given to strike out the claim on the basis that:

- 3.1 The Claimant has not complied with Orders of the Tribunal dated 3 July 2018 and 4 October 2018 asking her to provide a schedule of loss/statement of remedy that is being sought;
- 3.2 The Claimant has not complied with the other Orders made on 3 July 2018 leading up to the hearing of the claim listed for 22 – 24 January 2019 and the variation to those orders proposed by her former representative and adopted by the Tribunal; and
- 3.3 The claim has not been actively pursued.

4 The Claimant was given until 21 January 2019 to object to the proposal to strike out the claim by providing reasons in writing. No response was provided by the Claimant.

5 The full merits hearing for the 21 – 24 January 2018 was postponed on 18 January 2018 by Employment Judge Russell as the Claimant had not complied with case management orders, including exchange of witness statements and a fair hearing was not possible. The Claimant was informed by email that the hearing today would be used to consider striking out her claims for the reasons specified in paragraph 3 above.

6 The Claimant did not attend the hearing before me.

7 Mr McKeever, on behalf of the Respondent, submitted that the Claimant had patently failed to comply with Tribunal orders which had led to the postponement of the full merits hearing. He further submitted that the difficulty in communicating with the Claimant, and previously her representatives, and the her failure to even acknowledge communications sent to her by the Respondent, more recently on 10, 14 and 15 January 2019 was indicative of her claim not being actively pursued. I accepted Mr McKeever's submissions in this regard.

8 I then considered whether it was appropriate to exercise my discretion to strike out the Claimant's claim having regard to the serious implications for the Claimant of doing so. The case has an unhappy history and there is no suggestion or indication from the Claimant that she will engage and/or comply with any future case management orders to ensure that a fair hearing can take place. Further, the Claimant has not responded in writing to the strike out warning letter nor has she appeared at the Tribunal to object to such an action before me. No information has been provided for the reasons for her non-attendance.

9 In these circumstances I conclude that it is appropriate to strike out the Claimant's claims on the basis that she has not complied with orders of the Tribunal, as specified in paragraph 3 above, and also on the basis that the claim has not been actively pursued.

10 The Claimant's claims are therefore dismissed.

Employment Judge Burgher

1 February 2019