

EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: S/125361/2006

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Held in Glasgow on 24 July 2017

Employment Judge: Laura Doherty

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Mrs Angela Henry

**Claimant
No Appearance**

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NHS Greater Glasgow & Clyde

**Respondents
Represented by:
Mr J McRory -
Solicitor**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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The Judgment of the Employment Tribunal is that the claim is struck out under Rule **37(1)(a)** of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 (“the Rules”) on the grounds that the claim has no reasonable prospects of success.

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REASONS

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1. This was a Preliminary Hearing (“PH”) convened to consider the respondents` application for strike out of the claim under Rule **37(1)(a)** and **(d)** of the Employment Tribunal Rules.

2. The claimant has a lay representative, Mr Purdie; however there was no appearance at the PH by the claimant or her representative. The Tribunal was satisfied that Notice of the Hearing had been intimated to the claimant's representative and there was no reason advanced for non attendance. In the circumstances the Tribunal proceeded with the PH in the claimant's absence, and considered the respondents` application. In the event there is some issue which caused the claimant not to be in attendance then there is the capacity in terms of the Tribunal Rules to her to apply for a reconsideration of this judgment.

3. The respondent's application is made on the basis that the claim has no reasonable prospects of success. This claim was lodged as part of a multiple in which Thompsons Solicitors were acting. The claimant brought a complaint of equal pay on the basis of equal value, and /or work rated as equivalent under the Equality Act 2010.

4. The ET1 lodged by the claimant did not identify comparators, but contained an indication that identification of comparators would follow later, after discovery. There was no identification of a term in the contract of employment of a comparator, upon which the claimant relies in presenting her claim. The ET1 remains unamended. It is the respondent's position that the ET1 does not disclose the information which is necessary to the success of a complaint of equal pay, and therefore the claim should be dismissed on the grounds that it has no reasonable prospects of success.

5. It is fundamental to the success of a complaint of equal pay under the Equality Act 2010 that the claimant is able to identify a comparator and is able to identify a term in that comparators contract of employment which is said to give rise to inequality in pay. The ET1 does not disclose either of these matters, and there has been no substantive response to the respondents` application for strike out of the claim, which was intimated in November 2016, to suggest the claimant is in a position to provide the information necessary to proceed with her claim of equal pay.

6. In terms of Rule **37(1)(d)** of the Tribunal Rules, the Tribunal can strike out a claim where it has no reasonable prospect of success.

5 7. The Tribunal took into account the terms of the ET1, which are lacking in information essential to the pursuit of an equal pay claim, and the lack of substantive response to the respondent's application for strike out, and in the circumstances was satisfied that it could be said the claim had no reasonable prospects of success, and should be struck out under Rule **37(1)(a)** of the Rules.

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Employment Judge Laura Doherty

15 Date of Judgment 25 July 2017

Entered in register and copied to parties 31 July 2017

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