



EMPLOYMENT TRIBUNALS (SCOTLAND)

5

Case No: 4123000/2018 Preliminary Hearing at Edinburgh on 1 February 2019

Employment Judge: M A Macleod

10

Katarzyna Mazur

Claimant

Robertson Construction Group Limited

Respondent
Represented by
Mr J Boyle
Solicitor

15

20

NOTE

25

1. The claimant presented a claim to the Employment Tribunal on 19 November 2018, in which she complained that she had been unfairly dismissed and discriminated against on the grounds of race by the respondent.

30

2. The respondent submitted an ET3 in which they resisted all claims made by the claimant, and called into question her right to make a claim of unfair dismissal due to the lack of qualifying service upon which to base such a claim.

3. A Preliminary Hearing for the purpose of case management was fixed to take place on 1 February 2019. The claimant appeared on her own behalf, and Mr Boyle appeared for the respondent.

4. At the outset of the hearing, the claimant confirmed that she wished to withdraw the claim of unfair dismissal, on the basis that she understood that she lacked the necessary qualifying service for such a claim.
5. She also accepted that the respondent named in the ET1 – Charlene Archibald – was in fact a manager employed by the company against which she wished to direct her claim. That company was understood to be Robertson Construction Central East.
6. When I raised with Mr Boyle whether that was a limited company, he confirmed that in fact it is not registered at Companies House, and therefore has no legal identity. He proposed that the respondent in this case should be Robertson Construction Group Limited. He undertook, further, that the respondent would not seek to make an issue about the identity of the respondent at a later stage in the proceedings. The claimant agreed that the claim should be directed at this company.
7. In these circumstances, it is appropriate to amend the name of the respondent to Robertson Construction Group Limited, and to dismiss the claim insofar as directed at Charlene Archibald.
8. A short Judgment will be issued with this Note dismissing the unfair dismissal claim on its withdrawal and dismissing the claim insofar as directed against Charlene Archibald; and amending the claim so that the respondent is Robertson Construction Group Limited.
9. The claimant confirmed, further, that she was not employed by Robertson Construction Central East, but by Office Angels, an employment agency, but assigned to work at the respondent's business.
10. Mr Boyle confirmed that this was his understanding of the position, but that this did not prevent the claimant from advancing a claim of discrimination on the grounds of race against his client.
11. There was then a discussion about the scope of the discrimination claim, and the claimant agreed that she would submit further and better particulars to the respondent (copied to the Tribunal) within 14 days of this Preliminary

Hearing, that is, by no later than 15 February 2019; the respondent will have a further 14 days within which to submit any response to those further particulars if so advised.

5 12. The claimant confirmed that she wished the Tribunal to make a recommendation, in addition to awarding her financial compensation. That recommendation would be that when the respondent recruits someone from a different background, they should acknowledge the cultural sensitivities which may be at play and treat the person appropriately according to those cultural sensitivities.

10 13. It is agreed that a hearing should now be fixed in order to determine the issues in this case. Date listing letters will be issued following receipt of the claimant's further and better particulars.

15 14. There was a discussion about whether or not judicial mediation might be sought by the parties, but at this stage neither wished to engage in this process. I confirmed that it is open to parties at any stage to make a joint approach to seek judicial mediation, and that I would be in a position then to make the necessary recommendation to the Vice-President of Employment Tribunals (Scotland) to put in place the arrangements for judicial mediation. Clearly if they wish to do so, they should signal their intention as quickly as possible.
20

15 15. There being no further matters raised by either party at this stage, the PH was concluded.

25 Employment Judge: Murdo A Macleod
Date of Judgement: 01 February 2019
Entered in register: 04 February 2019
And copied to parties