



EMPLOYMENT TRIBUNALS

Between:

Miss B Bhayani
Claimant

and

Next Retail Ltd t/a Next Directory
Respondent

RECORD OF A CLOSED TELEPHONE PRELIMINARY HEARING

Heard at: Nottingham

On: Wednesday 17 April 2019

Before: Employment Judge P Britton (sitting alone)

Representation

For the Claimant:

No appearance or explanation

For the Respondent:

Mr Wie-Men Ho, Solicitor

JUDGMENT

1. The claim is struck out in its entirety for non-compliance with the tribunal's orders.
2. The hearing currently scheduled for 3 days commencing 3 June 2019 is cancelled.

REASONS

1. I will take this matter starting with the telephone case management discussion heard by my colleague, Employment Judge Brewer on 23 July 2018. He made a whole series of orders, the first of which related to the Claimant providing further evidence as to her contention that she was a disabled person. He ordered that she provide an impact statement and also full medical notes.
2. The impact statement was provided by 17 September 2018 as directed but the Respondent only got limited GP notes. At that stage, the tribunal was unaware of that issue because it is not recorded on the file in terms of incoming correspondence.
3. However, that brings me to the next tranche of EJ Brewer's orders which required the Claimant to give full particulars of the range of the

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Equality Act disability discrimination claims which she was bringing. This is covered by his orders 5 – 10 inclusive.

4. On 24 September 2018, that having not been complied with, the Respondent's solicitors asked for an extension of time for them to respond thereto until after the orders had been complied with. This was not placed before a Judge until 16 November 2018, at which stage the Claimant was asked for her comments by 21 November 2018. This was all via her legal representative Mr Christopher Johnstone, One Assist Legal Services Ltd who had attended on her behalf at the TCMPh, albeit it is reported he fell ill halfway through.
5. On 1 February 2019, the Respondent, not having heard from the tribunal, politely chased a reply. What is clear from the file is that Mr Johnstone had not responded at all to the Tribunal's request of 16 November 2018.
6. On 6 March 2019, the matter came before Employment Judge Ahmed who ordered today's telephone case management discussion. He specifically made plain that on the agenda would inter alia be to consider whether the claim should be struck out "*for failure to comply with case management orders*". This is reiterated in the notice of hearing that went out to the parties on 9 March.
7. There has not thereafter been any correspondence coming in from Mr Johnstone or otherwise for the Claimant.
8. As to this hearing today, Mr We-Men Ho was in attendance as the Solicitor for the Respondent. There was nobody on the telephone for the Claimant and there has been no explanation as to non-attendance.
9. In the circumstances, it follows that I have no hesitation in striking out the claim given the history of non-compliance with the tribunal's orders and particularly bearing in mind that the Claimant was on notice that this was on the agenda for consideration today.

Employment Judge Britton

Date: 17 April 2019

Sent to the parties on:

For the Tribunal: