



THE EMPLOYMENT TRIBUNALS

PUBLIC PRELIMINARY HEARING

Claimant: Miss Laura Davison

Respondent: Commissioners for Her Majesty's Revenue & Customs

Heard at: North Shields **On:** 26 April 2018

Before: Employment Judge Johnson (sitting alone)

Representation:

Claimant: In person

Respondent: Mr A Crammond of Counsel

JUDGMENT ON PRELIMINARY ISSUE

- 1 The claimant having failed to comply with the terms of the Unless Order dated 18 December 2017, the claimant's complaints of unlawful disability discrimination are struck out and dismissed.
- 2 This Judgment constitutes written notice of the dismissal of the claimant's claims, pursuant to Rule 38(1) and (2) of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013.

REASONS

- 1 This matter came before me this morning for consideration of a number of matters arising out of earlier case management orders made in these proceedings. The claimant attended in person and conducted the hearing herself. The respondent was represented by Mr Crammond of counsel. No evidence was given by or on behalf of either side. Mr Crammond had produced an earlier bundle of documents which had been marked R1 and today supplemented that with an additional bundle which is marked R2.

2 It is appropriate to set out a brief chronology of what has happened to date in these proceedings:-

- (1) 31 May 2016 – claimant’s employment with the respondent commences.
 - (2) 31 March 2017 – claimant is dismissed for reasons related to her long term absence.
 - (3) 12 June 2017 – claimant presents claim form ET1 to the Employment Tribunal, alleging unfair dismissal and unlawful disability discrimination.
 - (4) 21 August 2017 – respondent presents response form ET3.
 - (5) 14 September 2017 – private preliminary hearing before Employment Judge Garnon – case management orders made. Claimant withdraws claim of unfair dismissal.
 - (6) 2 October 2017 – claimant’s complaint of unfair dismissal is dismissed upon withdrawal by the claimant.
 - (7) 5 October 2017 – claimant presents an amended particulars of claim.
 - (8) 26 October 2017 – respondent presents amended response. Respondent does not concede that the claimant was at all material times suffering from a disability as defined in section 6 of the Equality Act 2010.
 - (9) 1 November 2017 – notice of listing of preliminary hearing to determine the following issues:-
 - (a) whether or not the claimant was disabled within the meaning of section 6 of the Equality Act 2010 insofar as she had anxiety and/or depression at all material times;
 - (b) if it is found that the claimant was not disabled insofar as she had anxiety and/or depression at all material times, whether the claimant’s claim has any reasonable prospect of success;
 - (c) to consider if there is little reasonable prospect of success, whether to order the claimant to pay a deposit as a condition of continuing with the claim.
- (Public preliminary hearing listed to take place on Monday, 18 December 2017).
- (10) 18 December 2017 – public preliminary hearing. Claimant fails to attend. “Unless Order” made by Employment Judge Johnson, requiring the claimant to comply by Friday, 5 January 2018.
 - (11) 21 December 2017 – letter from the claimant by way of response to the Unless Order.

- (12) 8 January 2018 – letter from Employment Tribunal to claimant asking for specific answers to the five specific questions set out in the Unless Order, with the claimant to reply by not later than 12 January 2018.
 - (13) 11 January 2018 – letter from claimant to Employment Tribunal purporting to answer those five points.
 - (14) 16 January 2018 – letter from respondent to Employment Tribunal setting out the respondent’s position that the claim be struck out due to the claimant’s failure to comply with the Unless Order.
 - (15) 26 January 2018 – Tribunal issues Notice of Preliminary Hearing to take place on Monday, 19 February to consider:-
 - (a) whether the claim should be struck out due to the claimant’s failure to comply with orders;
 - (b) if claims are not struck out, to consider the issue of the claimant’s alleged disability;
 - (c) to make such case management orders as are appropriate.
 - (16) 29 January 2018 – letter from respondent to Employment Tribunal seeking “a reconsideration of the decision made by Employment Judge Johnson on 26 January 2018 to list a preliminary hearing to determine amongst other things “whether claims should be struck out due to the claimant’s failure to comply with orders.”
 - (17) 30 January 2018 – Notice of Preliminary Hearing, postponing the hearing for 19 February and re-listing the hearing for Friday, 2 March at which the respondent’s application would be considered.
 - (18) 1 March 2018 – request from claimant for postponement of hearing listed for 2 March due to inclement weather. (Application not opposed by the respondent).
 - (19) 15 March 2018 – Notice of Preliminary Hearing to take place on Thursday, 26 April.
 - (20) Preliminary Hearing 26 April 2018.
- 3 The present difficulties with this case have arisen because of the claimant’s failure to attend the preliminary hearing on 20 December 2017. The claimant accepts that she received the notice of hearing. The second page of the order states as follows:-

“Unless there are exceptional circumstances, no application for a postponement will be granted. Any such application must be in writing. It is your responsibility to make sure that all witnesses come to the hearing.

You may submit written representations for consideration at the hearing. If so, they must be sent to the Tribunal and to all the other parties not less than 7 days before the hearing. You will have the chance to put forward all your arguments in any case.”

- 4 The Notice of Hearing specified that the hearing would commence at 9:45am. The hearing convened at that time. Mr Crammond attended on behalf of the respondent with the relevant bundles of documents. Employment Judge Johnson was ready to proceed at that time. By 10:45am the claimant had still not attended. No application had been made by the claimant for a postponement. Having checked with the Employment Tribunal clerk, I was satisfied that the claimant had not contacted the Tribunal to explain her non-attendance. Mr Crammond confirmed that he had heard nothing from the respondent concerning any contact from the claimant about her non-attendance.
- 5 The purpose of that hearing was to decide the issue of whether the claimant was at all material times suffering from a disability as defined in section 6 of the Equality Act 2010 insofar as the alleged disability related to her depression. Mr Crammond urged me to deal with that issue in the claimant’s absence. That would mean relying solely upon the medical information which had been provided by the claimant. The claimant’s absence would mean that it was impossible to fairly and justly establish the extent to which, if any, that alleged mental impairment had a substantial adverse impact on her ability to carry out normal day to day activities. I was satisfied that, in accordance with the Overriding Objective, the claimant should be given a final opportunity to both explain her non-attendance and to present her evidence about her disability. I did however accept Mr Crammond’s submissions that an “Unless Order” should be made pursuant to Rule 38 of the 2013 Rules, primarily because the claimant had simply failed to attend and had failed to inform either the Tribunal or the respondent that she would not be attending. The respondent had been put to time and expense preparing for the hearing and instructing counsel and I was satisfied that it was appropriate for an Unless Order to be made.
- 6 It is important to set out the precise terms of that Unless Order:-

- “1 This public preliminary hearing is postponed.
- 2 Unless by 4:00pm on Friday, 5 January 2018 the claimant writes to the Employment Tribunal (copying her letter to the respondent’s representative) setting out in clear terms:-
 - 2.1 an application to relist today’s public preliminary hearing to consider whether she is and was at all material times suffering from a disability as defined in section 6 of the Equality Act 2010 with regard to her alleged mental impairment;
 - 2.2 explaining her failure to attend today’s public preliminary hearing;

- 2.3 explaining her failure to inform the respondent that she would not be attending;
- 2.4 explaining her failure to inform the Employment Tribunal that she would not be attending;
- 2.5 explaining why she should not be ordered to pay the respondent's costs incurred by her failure to attend today's hearing;

then all of the claimant's claims shall be struck out upon withdrawal by the claimant without further judgment or order".

- 7 That Order and the reasons for making it, were sent to the claimant and obviously received by her on 21 December 2017. On that date, timed at 15:08pm, the claimant sent the following letter by e-mail to the Employment Tribunal (but did not copy it to the respondent):-

"My sincere apologies for having missed the hearing on Monday. My son was violently ill so I was unable to attend as I had to take care of him. It was from my understanding of the "hearing" information that an outcome would be reached without me if I did not attend so have at this point been waiting to hear about it. That is until I received your earlier e-mail. I am sorry for the delay in responding today but I have been at a funeral and did not have access to my phone/e-mails until now. Please let me know where we go from here as the information you have sent implies that there may be costs I have to pay/fine which I was not aware of."

- 8 That letter was placed before me on 8 January 2018. I am unable to explain why the claimant's e-mail of 21 December was not placed before me until 8 January. However, by letter dated 8 January 2018 the following reply was sent to the claimant and copied to the respondent:-

"This case has been referred to Employment Judge Johnson who acknowledges receipt of your e-mail dated 21 December 2017 and requires you to provide specific answers to the five specific questions set out at paragraph 2 of the order dated 20 December 2017, by no later than 12 January 2018."

- 9 By e-mail dated 11 January 2018 and timed at 15:16pm the claimant purported to answer the five questions set out in the unless order dated 20 December. The claimant also set out an explanation about her disability at considerable length. Her answers to the five questions were as follows:-

"2.1 I am unsure at this point if I will re-apply for another hearing as I am unsure aside from the extensive evidence I have supplied, what more I can say in relation to the anxiety/depression. I have been looking through the various acts for some help with this. This is the most relevant thing I can find, as my earlier occupational health reports do say that it was likely that it may re-occur if there were to be a trigger.

2.2 I failed to attend as my son was violently ill and I had to stay to take care of him.

2.3 I failed to inform as I was busy taking care of my son, cleaning up sick and diarrhoea he would not leave my side even for a second so my focus was solely on him. From the "HEARING" guidance it stated that a decision would be made in my absence if I did not attend so I had thought nothing of it until the e-mail from court. I was waiting on the outcome.

2.4 As 2.3.

2.5 As above, it was circumstances outside of my control. I was led to believe from the guidance quoted in my letter about the hearing that a decision would be made in my absence, I was not aware I would incur any costs, I was not made aware. I'm quite upset this has even been brought up."

10 By letter dated 16 January, the respondents confirmed they had received a copy of the claimant's e-mail dated 11 January, but not until 15 January following a specific request from them. The respondent's letter states as follows:-

"For the reasons set out below, it is the respondent's position that the claimant's claim ought now to be struck out without further judgment or order pursuant to the Unless Order of Employment Judge Johnson dated 20 December 2017:-

1 The claimant failed to attend the preliminary hearing listed for 18 December 2017 without notice to the Tribunal or the respondent. She states in her e-mail of 11 January 2018 that she expected a decision to be made in her absence to "had thought nothing of it" and "was waiting on the outcome".

2 Employment Judge Johnson ordered the claimant (by way of an Unless Order) to:-

(a) apply to the Tribunal by 5 January 2018 to re-list a preliminary hearing. No such application was made by the (claimant); and

(b) provide specific answers to the questions set out at paragraph 2 of the Order. The claimant provided a short explanation for her absence in her e-mail to the Tribunal of 21 December 2017, but failed to answer all of the questions raised.

3 Following receipt of the claimant's e-mail of 21 December 2017, Employment Judge Johnson extended the deadline to comply with the Unless Order, such that the claimant was required to comply with the original order by 12 January 2018. It is the respondent's

position that the claimant has still failed to comply in any substance with the Unless Order. In particular:

(a) the claimant has not made an application to re-list the preliminary hearing and, instead, states that she is “unsure at this point” if she will apply to re-list the preliminary hearing;

(b) the claimant has explained her failure to attend the preliminary hearing on 18 December 2017, but has failed to provide an adequate explanation as to why she was unable to inform either the respondent or the Employment Tribunal that she would not be attending; and

(c) the claimant has failed to provide an adequate explanation as to why she should not be ordered to pay the respondent’s costs incurred by her failure to attend the preliminary hearing on 18 December 2017.

In view of the claimant’s continued non-compliance, the respondent submits that striking out the claimant’s claim upon withdrawal by the claimant without further judgment or order would be wholly consistent with the overriding objective to enable the Employment Tribunal to deal with the case fairly and justly”.

11 Upon receipt of that letter, by notice dated 26 January 2018, it was directed that there should be a further preliminary hearing to determine the following issues:-

11.1 Whether the claim should be struck out due to the claimant’s failure to comply with orders.

11.2 If the claims are not struck out, to consider the issue of the claimant’s alleged disability.

11.3 To make such case management orders as are appropriate.

12 I specified in the notice of hearing sent to the claimant that, “**the claimant is to be advised that it is in her best interests to attend the preliminary hearing.**”

13 Set out below are the relevant Rules of Procedure set out in the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013:-

“2 Overriding objective

The overriding objective of these rules is to enable employment tribunals to deal with cases fairly and justly. Dealing with a case fairly and justly includes so far as practicable –

(a) ensuring that the parties are on an equal footing;

- (b) dealing with cases in ways which are proportionate to the complexity and importance of the issues;
- (c) avoiding unnecessary formality and seeking flexibility in the proceedings;
- (d) avoiding delay so far as is compatible with proper consideration of the issues; and
- (e) saving expense.

A tribunal shall seek to give effect to the overriding objective in interpreting or executing or exercising any power given to it by these rules. The parties and their representatives shall assist the tribunal to further the overriding objective and in particular shall cooperate generally with each other and with the tribunal.

5 Extending or shortening time

The tribunal may on its own initiative or on the application of a party extend or shorten any time limit specified in these rules or any decision, whether or not (in the case of an extension) it has expired.

29 Case management orders

The tribunal may at any stage of the proceedings on its own initiative or on application make a case management order. (Subject to rule 30A(2) and (3)). The particular powers identified in the following rules do not restrict that general power. A case management order may vary, suspend or set aside an earlier case management order where that is necessary in the interests of justice and in particular where a party affected by the earlier order did not have a reasonable opportunity to make representations before it was made.

38 Unless orders

(1) An order may specify that if it is not complied with by the date specified, the claim or response or part of it shall be dismissed without further order. If a claim or response or part of it is dismissed on this basis the tribunal shall give written orders to the parties confirming what has occurred.

(2) A party whose claim or response has been dismissed in whole or in part as a result of such an order may apply to the tribunal in writing within 14 days of the date that the notice was sent, to have the order set aside on the basis that it is in the interests of justice to do so. Unless the application includes a request for a hearing, the tribunal may determine it on the basis of written representations.

14 Mr Crammond today provided me with a most helpful skeleton argument, which I have marked RS2. The legal submissions contained in that skeleton argument relate solely to the application for an order that the claimant's claims be struck

out. I took time today to enable the claimant to read through that document and to explain to her the basic principles set out in it.

15 Mr Crammond's basic submissions are that:-

15.1 The claimant failed to comply with the terms of the Unless Order.

15.2 The claimant failed to comply with the terms of the Unless Order by 5 January.

15.3 The claimant failed to comply with the terms of the Unless Order by the extended deadline of 12 January.

15.4 The claim was automatically struck out on 5 January.

15.5 Alternatively, the claim was automatically struck out on 12 January.

15.6 Because the claim was automatically struck out, the proceedings were concluded and anything thereafter was a nullity, including the notice of hearing issued on 26 January 2018.

16 Having examined Rule 38, I pointed out to Mr Crammond that the Employment Tribunal had failed to "give written notice to the parties confirming what has occurred". The effect of that failure was that the claimant, whose claim is said to have been dismissed, was denied the opportunity to apply in writing to the Tribunal within 14 days of the date of the notice being sent, to set aside the Dismissal on the basis that it is in the interest of justice to do so. Mr Crammond accepted that no notice had been issued to the parties confirming the strike out of the claims due to the failure to comply with the Unless Order. The effect was that the claimant had thereby been denied the opportunity to apply for relief from the sanction of the strike out of her claim. Mr Crammond accepted that if the respondent's application today were to be granted and the Tribunal were to confirm that the claims were struck out, then notice would still have to be sent to the claimant to that effect and she would then be entitled to take advantage of Rule 38(2) by making a written application to have that order set aside.

17 I then explored with Mr Crammond whether it could really be said to be in accordance with the overriding objective for the Tribunal to grant the respondent's application today, confirm to the claimant in writing that her claims were struck out and remind the claimant of her right to apply for that order to be set aside pursuant to Rule 38(2). I pointed out to Mr Crammond that I was today ready and able to proceed to hear everything that the claimant has to say about her failure to attend on 20 December and the contents of her subsequent correspondence in which she attempted or purported to explain her absence. Mr Crammond made it clear that he had no instructions to agree to that course of action and thus could not consent to it today. Mr Crammond's position on behalf of the respondent remained that the Tribunal should revisit the original Unless Order of 20 December, confirm that the claims were struck out and serve the appropriate notice in writing on the claimant. It would then be a matter for her to

decide whether or not she wished to make an application for relief under Rule 38(2).

- 18 The first ground of Mr Crammond's application was for a "reconsideration" of the decision made on 26 January 2018 to list a preliminary hearing. I queried with Mr Crammond whether it was possible for there to be a reconsideration of that decision. Rule 70 specifies that the Tribunal may reconsider "**any judgment**". Rule 1(3)(b) defines a "judgment" as "a decision made at any stage of the proceedings (but not including a decision under Rule 13 or 19) which finally determines (a) a claim or part of a claim as regards liability, remedy or costs (including preparation time and wasted costs), (2) any issue which is capable of finally disposing of any claim or part of a claim even if it does not necessarily do so (for example an issue whether a claim should be struck out or a jurisdiction issue); (3) the imposition of a financial penalty under section 12A of the Employment Tribunals Act. I enquired of Mr Crammond as to how a decision to list a preliminary hearing could amount to a "judgment". Mr Crammond submitted that it was a decision which could lead to the final disposal of the claim and thus could fall within the definition of "judgment". I respectfully disagreed with Mr Crammond. I am satisfied that the 2013 Rules do not permit an application for a reconsideration of a decision to list a preliminary hearing.
- 19 Mr Crammond's next submission was that the claimant's claim stands automatically struck out as a result of the original (unappealed and unchallenged by the claimant) Unless Order which expired on 5 January 2018. Alternatively, it was automatically struck out as a result of the continued non-compliance with the order (despite further opportunity to do so) as at 12 January 2018. Mr Crammond's submission was that anything thereafter was effectively a nullity, as the claim had been automatically struck out and the Tribunal had no such power to make any further orders. The claim was no longer in existence as it had been struck out.
- 20 Mr Crammond invited me to examine the purpose, nature and status of unless orders in rule 38. The power to make what is commonly referred to as an "unless order" was first introduced in the 2004 Rules to reflect a power that the courts have had in other civil litigation for some time. Its effect is to give the Tribunal "sharper teeth" when dealing with parties who fail to conduct their case in a reasonable manner. Where an unless order is made and the relevant party fails to comply with the order, the Tribunal is not required to give that party any further opportunity to make representations, for example as would otherwise be required under the Rule 37 procedure to strike out a claim, before the automatic strike out takes effect. Where there is non-compliance with an unless order in "any material respect" the Tribunal has no discretion as to whether or not the claim or response should be struck out. The claim or response (or part) is automatically struck out as at the date of non-compliance and there is no requirement for a further order addressed to the party against whom the unless order was made. This means that the party seeking to take advantage of the unless order need not make an application for a strike out on the basis of a failure to comply. Once there is a failure to comply, then the claim is automatically struck out.

- 21 In **Scottish Ambulance Service v Laing EATS0038/12** the Employment Appeal Tribunal confirmed that an unless order is a “conditional judgment”, because the Tribunal has already addressed the question of whether or not “the deadly sword of strike out” should fall on the party against whom the order was sought and decided that unless a particular direction is complied with, it should. Partial compliance with an unless order is not enough. Once there is partial non-compliance with an unless order, then subject to an application for relief from the order or on appeal, automatic strike out of the claimant’s entire case as provided for by the order, will take immediate effect.
- 22 The question then arises as to whether or not the claimant has complied with the terms of the Unless Order dated 20 December 2017. The relevant authorities state that compliance need not be precise and exact. The phrase used by the Court of Appeal in **Markham Shipping (London) Limited v Kefalas [2007] EWCA-Civ-463** was non-compliance in “any material respect”. In **Johnson v Oldham Metropolitan Borough Council EAT0095/13**, Mr Justice Langstaff held that the test of “substantial compliance” was in accordance with the law, but stated that “material” is a better word than “substantial” because it draws attention to the purpose for which compliance with the order is sought. It is now accepted that the question of “substantial compliance” should be assessed not quantitatively, but qualitatively. Turning now to the precise terms of the Unless Order dated 20 December 2017, I must consider whether or not the claimant can be said to have complied with those orders on a qualitative rather than quantitative basis:-
- 22.1 Has the claimant yet applied to re-list the public preliminary hearing to consider whether she is and was at all material times suffering from a disability? The answer clearly is that she has not. The claimant simply states that “I am unsure at this point if I will reapply for another hearing”.
- 22.2 Has the claimant explained her failure to attend the public preliminary hearing on 18 December? I am satisfied that she has. Neither the respondent nor I could gainsay what the claimant said, namely that she was unable to attend due to the sudden and urgent illness of her young child.
- 22.3 Has the claimant explained her failure to inform the respondent that she would not be attending? No she has not. She simply states that she was “busy taking of my son, cleaning up sick and diarrhoea and my focus was solely on him.” The claimant obviously has access to e-mail and telephone and I could see no good reason why she did not use either of those to briefly contact the respondent and the Employment Tribunal on the morning of 18 December to explain her non attendance. Had she done so, it is highly unlikely that an Unless Order would have been made.
- 22.4 As with 22.3 above, I am not satisfied that the claimant has complied.
- 22.5 Costs. The claimant simply states that because her absence was caused by circumstances beyond her control and because she believed that a decision would be made in her absence, she was unaware that there was

any possibility that costs could be incurred. Again, that cannot be said to be a qualitative response to the Unless Order.

Finally, Mr Crammond points out that the Unless Order specifically requires the claimant to answer all of those questions in writing and to “**copy her letter to the respondent’s representative**”. Mr Crammond states that the claimant failed to copy to the respondent her letter of 21 December and her letter of 11 January, until a copy was requested by the respondent. That he says again amounts to a failure to comply with the terms of the Unless Order.

23 I address my mind to the purpose of which compliance of the Unless Order was sought. The claimant had failed to attend a preliminary hearing at which the question of her disability was to be considered. That is clearly a matter of huge importance to both the claimant and the respondent. If the claimant was not disabled at the material time, then all of her claims of unlawful disability discrimination must fail. The respondent has challenged the claimant’s disability (as it is entitled to do) and the Employment Tribunal has considered it appropriate for there to be a preliminary hearing solely to decide that issue. The claimant was aware of the date of the hearing from the very beginning of November. I have seen no documentation to support the claimant’s assertion that she was led to believe that in her absence the claim would be dealt with on any written material which she had submitted. The Tribunal and the respondent need to be satisfied that the claimant’s mental impairment has a long term and substantial effect on her ability to carry out normal day to day activities. The respondent was entitled to challenge that and the Tribunal found on 18 December that the issue could not properly be dealt with in the claimant’s absence. The volume of claims in the Employment Tribunal has increased dramatically since the decision of the Supreme Court in mid 2017, the effect of which was to remove the obligation to pay a fee to bring an Employment Tribunal claim. The Employment Tribunal system should provide a speedy process for the resolution of disputes in the workplace. The Tribunal Service endeavours to deal with claims as quickly as possible on the basis that “justice delayed is justice denied”. Parties who do not comply with case management orders or who do not turn up for hearings cause delay, not just for their own cases, but for the many other cases which are waiting to be heard. A firm and robust approach should be taken in such cases – that is the purpose of Rule 38. It is intended to be a clear and stark instruction to the relevant party that they will not be permitted to take any further part in the proceedings if they do not do what they have been ordered to do, particularly if that involves failing to attending for hearing.

24 The claimant was made aware of the Unless Order dated 18 December, as early as 21 December. Her reply of 21 December is inadequate and does not comply with the terms of the Unless Order. The claimant was, somewhat fortuitously, given a further opportunity to comply when she was told to answer the five specific questions by not later than 5 January. The claimant’s answers remain inadequate. The claimant has therefore failed to comply with the terms of the Unless Order. Because that Unless Order has the effect of a conditional judgment and because the claimant has failed to comply with those conditions, all of her claims are struck out.

- 25 I am satisfied that the claimant's claims were struck out as at 12 January 2018, when the claimant failed to comply with the terms of the Unless Order by the extended date of 12 January 2018. I accept Mr Crammond's submissions that everything thereafter was effectively a nullity. Today's hearing should not have been necessary and should not have been listed. The claims were already struck out.
- 26 However, I am satisfied that the entire provisions set out in Rule 38 must be observed. Rule 38(1) requires the Tribunal to give written notice to the parties confirming that has occurred. That was not done. As I have set out in the judgment above, the parties should accept this written judgment as written notice pursuant to Rule 38(1). The effect of that is that the claimant now has the opportunity pursuant to Rule 38(2) to apply to the Employment Tribunal in writing within **14 days** of the date when she receives this judgment, to have set aside this strike out judgment if she can satisfy the Tribunal that it is in the interests of justice to do so.

CONSEQUENCES OF NON-COMPLIANCE

1. Failure to comply with an order for disclosure may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under s.7(4) of the Employment Tribunals Act 1996.
2. The Tribunal may also make a further order (an "unless order") providing that unless it is complied with, the claim or, as the case may be, the response shall be struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice or hold a preliminary hearing or a hearing.
3. An order may be varied or revoked upon application by a person affected by the order or by a judge on his/her own initiative.

EMPLOYMENT JUDGE JOHNSON

JUDGMENT SIGNED BY EMPLOYMENT

JUDGE ON

7 June 2018

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