



THE EMPLOYMENT TRIBUNALS

Claimant: Mr K McAllister

Respondent: North East Ambulance Service NHS Foundation Trust

Heard at: North Shields **On:** 20 June 2018

Before:

Employment Judge: Mr E Beever

Members : Mr Cartwright and Mrs Jennings

Representation:

Claimant: In person, with his wife Mrs M McAllister

Respondent: Mr J Anderson (Counsel)

JUDGMENT

1. The Proceedings are stayed on the terms set out below
2. The Hearing listed for 20-22 June 2018 is vacated
3. The parties are to write to the tribunal by 15 August 2018 informing the tribunal as to whether a binding settlement has been reached and what steps they request the tribunal to take
4. In default of either party writing to the tribunal by 4pm on 15 August 2018 the Proceedings shall stand dismissed with no further Order of the tribunal
5. In the event that either party writes to the tribunal by 4pm on 15 August 2018, the matter will be referred to an Employment Judge with a view to case management including the listing of a further Final Hearing.

REASONS

1. The parties attended before the tribunal on the first morning of the hearing, which was listed for 3 days commencing on 20 June 2018. Mr Anderson was acting for the Respondent. Mrs McAllister was speaking on behalf of her husband and she spoke clearly and effectively and the tribunal formed a clear view that she was able to understand what was taking place.
2. After preliminaries and introductions, Mr Anderson made an application to stay the proceedings. He acknowledged that the late application could well be a source of frustration to the tribunal. The reason for the application related to the parties' desire to reach a settlement. Mr Anderson said that even as of last week the parties had been far apart but that in the last few days, including with the involvement of ACAS, the parties' positions had narrowed considerably and there has been achieved a settlement to all intents and purposes but subject to treasury approval. He said that the nature of the agreement reached was so as to resolve all matters in dispute between the parties. The operative reason why it could not be a binding settlement was because it was conditional on treasury approval. Mr Anderson estimated that such approval if it was forthcoming would perhaps take 6 weeks.
3. Mr Anderson had the authority of the respondent to reach the terms of agreement that had been reached and in answer to a question from the tribunal he also indicated that it should be possible to reduce all the agreed terms into writing subject always to treasury approval.
4. Mrs McAllister agreed with what Mr Anderson had said. She recounted briefly how ACAS had been involved recently and she took advice on settlement terms from a pro bono barrister and she agreed that it "looks like we can agree it between ourselves albeit that treasury needs to agree it too".
5. After consideration, the tribunal required further assurance as to the fact and nature of the agreement between the parties and in particular that any stay with the inevitable adjournment of the present listing would effectively further the resolution of the claim and would not create an unacceptable risk that the matter would simply get re-listed in the future. In the circumstances, the application for a stay was adjourned to 12 noon during which time the tribunal continued its pre-reading in the event that the hearing proceeded.
6. In fact, at 11.35am, the parties returned and Mr Anderson informed the tribunal that the parties had entered into a COT-3 type document which although being draft and non-binding (because of the condition of treasury approval) it was in sufficient detail to dispose of all issues in the case. In effect, the parties had completely resolved matters but it could not be made into a binding agreement because the respondent was required to obtain treasury approval. Mrs McAllister again agreed with Mr Anderson. Both parties therefore wanted the matter to proceed to treasury approval and for the matter to be resolved by agreement rather than tribunal determination.

7. The tribunal was hesitant because the inevitable effect of a stay of the proceedings would be to cause the present listing to be vacated and thus waste some valuable judicial resource. In addition, the tribunal was acutely aware that the agreement between the parties was nevertheless non-binding at this point and there was a risk that the matter would need to return to the tribunal for further case management and another final hearing, which would impact further on judicial resources.
8. The tribunal decided that the parties had formed a joint desire to resolve this matter by agreement and had in fact done all that they could so far to achieve that settlement. It was in those circumstances not in accordance with the overriding objective to seek to impose a contested hearing and a tribunal determination on the parties.
9. The tribunal agreed to stay the Proceedings, but also ordered that the parties must inform the tribunal about the status of the case by 15 August 2018. In default of any communication from the parties, the Proceedings would stand dismissed with no further order, and in the event that the case had not finally settled then an Employment Judge would review the case for further case management and probably with a view to listing new dates for a Final Hearing without undue delay.

EMPLOYMENT JUDGE BEEVER

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON**

.....7 August 2018

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