



# **EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 4100468/2018**

**Employment Judge S Simon**

**Mr G Stubbs**

**Claimant**

**Palmer and Harvey McLane Ltd in Administration**

**Respondents**

## **JUDGMENT**

The claim is struck out under rule 37 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 on the grounds that the claim has not been actively pursued in terms of rule 37(1)(d).

## **REASONS**

1. The claimant's claim form was presented to the Employment Tribunal on 22 January 2018. He claimed that he was unfairly dismissed and that he was owed notice pay. He stated that his former employer was in liquidation or administration and stated that Price Waterhouse Coopers were the "Administrators". It was not entirely clear at that stage whether the claimant also intended to make a claim for a protective award. Enquiry was made about this, on my direction, and in response the claimant stated that he was claiming "90 days notice only" at the rate of £340 per week. Other individuals have also made claims against the same respondent, arising out of the same circumstances. Price Waterhouse Coopers, who are the company administrators, gave consent for claims against the respondent to proceed but only in so far as they were claims for a protective award. They explained by letter dated 25 April 2018 that all employees had been sent information about how to make a claim to the Insolvency Service for, amongst other matters, failure to pay notice pay.

2. By letter dated 10 September 2018 from the tribunal the claimant was asked to clarify whether he had sought consent from the Administrator or the Court dealing with the administration to proceed with his claim. He was asked to respond to this enquiry by 19 September 2018 but he failed to do so. By letter dated 21 September 2018 the claimant was informed that I had noted he had not replied to the letter of 10 September and clarification was sought from the claimant as to whether he intended to pursue his claim, once there was no legal restriction on him doing so. He was asked to respond in writing by 5 October 2018. The claimant failed to respond to this letter.
3. By letter dated 11 October 2018 the claimant was informed that I had directed the proceedings were to be sisted until 31 December 2018 and he was directed to inform the tribunal of his intentions by 31 December 2018 with regard to the pursuit of the claim. The claimant failed to respond to this correspondence.
4. By letter dated 4 April 2019 I directed the claimant to provide the information which had been sought in this previous correspondence by no later than 18 April 2019. The letter also stated that if the claimant failed to do so then the process for striking out his claim would begin, on the basis that it had not been actively pursued. The claimant failed to respond to that letter.
5. By letter dated 23 April 2019 the claimant was advised that I was considering striking out his claim on the basis that it had not been actively pursued. He was invited to write to the Employment Tribunal, or request a hearing, by no later than 7 May 2019 if he wished to object to his claim being struck out. The claimant has failed to respond to that correspondence. In all the circumstances the claim is struck out under Rule 37(1)(d) on the basis it has not been actively pursued.
6. If the claimant wishes to do so he is at liberty to ask the tribunal to reconsider this judgment under the provision of Rule 70 and 71 of the Employment Tribunals Rules of Procedure. Such an application must be made in writing within 14 days of the date this judgment was sent to parties.

Employment Judge: Shona Simon  
Date of Judgement: 16 May 2019  
Entered in register: 16 May 2019  
And copied to parties