



EMPLOYMENT TRIBUNALS

Claimant

AND

Respondent

Mr R V Mighton

London Underground Limited

Heard at: London Central

On: 14 May 2019

Before: Employment Judge Wade

Representation

For the Claimant: In person

For the Respondent: not present or represented

RESERVED JUDGMENT AT A RULE 27 PRELIMINARY HEARING

1. The judgment of the Tribunal is that the claims are not permitted to proceed under Rules 27 and 37 because they have no reasonable prospect of success.

REASONS

The hearing

1. This hearing was wrongly identified in the Notice of Hearing as a private case management preliminary hearing and a general case management Agenda had been sent to Mr Mighton, which he had completed.

2. I explained the error to Mr Mighton and he gave his consent for the hearing to be converted to an open preliminary hearing for the purpose of deciding whether to strike the claim out under Rule 27. He had been notified that the hearing would be listed following his response to the "Notice and Order" under Rule 27 sent to him on 18 February 2019 which began "Having considered the file, Employment Judge Wade is of the view that the Tribunal has no jurisdiction to consider the claim and/ or that the claim has no reasonable prospect of success..." so he had requested a Rule 27 hearing and was in no doubt as to what the purpose of this hearing was. This was his fourth Rule 27 preliminary hearing.

The decision

3. This is the claimant's eighth Tribunal claim. He claims unfair dismissal, race discrimination and arrears of pay. These are all claims which he has brought before and this decision contains the same reasoning as before; I have copied some of the wording in these Reasons across from earlier judgments as there is little new left to say. A summary of the past claims is as follows:

3.1 Claim 3200845/2014 was withdrawn by the claimant.

3.2 Claim 2202261/2014 was dismissed after full hearing 9 June 2015.

3.3 Claim 3202079/2016 was dismissed after a full hearing on 6 July 2016 of claims of unfair dismissal, race discrimination and arrears of pay.

3.4 Claim 2208049/2016 was dismissed at Preliminary Hearing on 16 February 2017. In summary, this was because the claims had already been adjudicated (*res judicata*), should have been raised at the material time (abuse of process) and were out of time.

3.5 Claim 2201026/2017 was dismissed after a Rule 27 Hearing on 17 August 2017. The judgment from the Preliminary Hearing of 16 February was attached as the reasoning was the same.

3.5 Claim 2207502/2017 was dismissed after a Rule 27 Hearing on 5 March 2018. The judgment from the Preliminary Hearing of 16 February was attached as the reasoning was the same.

3.5 Claim 2201896/2018 was dismissed after a Rule 27 Hearing on 24 September 2018. The judgment from the Preliminary Hearing of 16 February was attached as the reasoning was the same.

4. This current claim was filed on 15 October 2018. The respondent defended the claim and asked for it to be struck out. A Rule 27 notice was sent to the claimant on 18 February 2019, summarising why Employment Judge Wade was of the view that the claim had no reasonable prospect of success:

“Having considered the file, Employment Judge Wade is of the view that the Tribunal has no jurisdiction to consider the claim and/ or that the claim has no reasonable prospect of success for the following reasons:

1. The Claimant has litigated the same issues eight times and his claims appear to be barred because they have already been decided (*res judicata*) or are an abuse of process.

2. He names 43 additional respondents this time, more than he has ever named before, but they are all named in relation to the same issues. They are Directors, managers, a union representative and employees of

the respondent, some former employees and Some are identified because they are “witnesses”, one is a cleaner and another a fitter and these and other are not relevant to the claim. The respondent says that the additional respondents have been named vexatiously and this seems likely.

3. All the claims are out of time as the Claimant’s employment ended on 27 August 2015.

4. Further, in relation to his asthma and his property, the Tribunal does not have jurisdiction to consider a personal injury claim.

5. His sixth claim, 2207502/17, which related to the same matters as pleaded here, was dismissed under Rule 27 on 5 March 2018 and the EAT dismissed the appeal 15 May as being totally without merit. Mrs Justice Simmler warned that the claimant was at risk of civil restraint proceedings and following his application to the Court of Appeal Lady Justice Sharp made a similar comment.

6. His seventh claim, 2207502/17, which relates to the same matters as pleaded here, was dismissed under Rule 27 on 5 March 2018 and the EAT dismissed the appeal 15 May as not disclosing grounds for appeal; a Rule 3(10) hearing is awaited.”

5. On the claimant objecting to the claim being struck out this hearing was listed.

The claimant’s submissions

6. Since the Rule 27 notice was sent to him the claimant has sent the Tribunal emails with attachments which measure more than 1 inch thick. A number relate to his asthma due to not being given the right mask and the personal property in his locker which he says was stolen following which the police did not find the perpetrator. He told the tribunal at the hearing that he had evidence the he was currently being defamed by the respondent and that he was suffering from air pollution. Further, he complains about a former solicitor who represented him. The Tribunal does not have jurisdiction over these matters. I have looked through his documents but I have not read every page, I have also found his arguments hard to understand. Therefore I gave the claimant the opportunity to summarise his arguments at the hearing and this gave me the opportunity to know whether there were any new points.

7. The claimant feels strongly that he has never been properly heard and that all the considerable evidence which he supplied to his employer, to the previous tribunals and in correspondence should be thoroughly considered at another full hearing. He says that he has new evidence relating to his employment with the respondent which ended in August 2015. He also says that he is expecting that following a complaint to his MP Rule 27 will be revoked following a private

members' Bill and that given the new evidence available Rule 27 should be ignored. He says that without the compensation which he is due he will be unable to visit his mother in Jamaica who is unwell.

8. Mr Mighton does not agree that he has already had two full hearings nor does he accept that if he was unhappy with the tribunal judgment the opportunity to appeal, which he exercised unsuccessfully, was the correct and indeed only route for addressing this.

Conclusions

9. I am sorry to say that the claimant's arguments have not changed my initial view that this claim has no reasonable prospect of success for the reasons set out in the Notice of 18 February and so the claims are struck out. The provision of new evidence at this late stage does not assist the claimant. What was said in the judgment of August 2017 is repeated here:

"The claimant has had two substantive hearings of the facts. The last claim, and this one, have been struck out at the preliminary stage because they are essentially a repetition of earlier matters and there are strong and clear legal rules preventing this, as well as rules on time limits. It is not in the interests of justice for the claimant to be allowed more trials of the same facts and I fear that if he does try to continue to litigate he will face more frustration because his opportunity to have a full trial of the facts has expired."

Employment Judge Wade

21 May 2019

Date

REASONS SENT TO THE PARTIES ON
.....24 May 2019

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For the Tribunal Office

FOR THE TRIBUNAL OFFICE