



EMPLOYMENT TRIBUNALS

Claimant
Mr D Roberts

v

Respondent
Wren Kitchens Limited

PRELIMINARY HEARING

Heard at: **Hull** On: **10 July 2019**

Before: **Employment Judge Shulman**

Appearance:

For the Claimant: **In person (accompanied by his fiancée
Miss Samantha Richardson)**

For the Respondent: **Mrs M Walker, Solicitor**

JUDGMENT

The claim of unfair dismissal is hereby dismissed upon withdrawal by the claimant.

REASONS

1. This matter was listed for a Preliminary Hearing.
2. The claimant presented his claim on 17 May 2019 which was for unfair dismissal for health and safety reasons.
3. The claimant was employed from 19 November 2018 up to 8 April 2019 and therefore did not qualify for the normal kind of unfair dismissal.

4. In the early part of the case I asked the claimant if he had read the response and he said he had not. He was supplied with a copy.
5. He told me that there were two principal reasons for his dismissal, one relating to an incident that occurred on 26 February 2019 and the other in relation to an incident that occurred on 5 April 2019, both relating to health and safety issues.
6. He had put in his claim form that he was made to work excess hours but he said that this was part of the reasons for his unfair dismissal.
7. I took him through what the respondent had to say about each of his allegations and he said he understood the position. The relevant paragraphs of the response are:
26 February 2019 - paragraph 20 of the response, and
5 April 2019 - paragraphs 8 and 27 of the response.

For completeness in relation to the excess hours allegation I referred him to paragraph 32 of the response.

8. I then asked him to read paragraphs 9 – 17 of the response, which contained a considerable number of allegations of the claimant's absence, during what was a short period of employment and he very honestly answered that each of those allegations in the response were true.
9. I asked the respondent what was the principal reason for dismissal and it appears that during the relevant period the claimant was in a probationary period and that effectively the reason for dismissal related to his failure during that period and was therefore related to performance.
10. I asked to see the letter of dismissal, which confirmed the respondent's stated reason for dismissal, although the claimant told the Tribunal that he had never seen the letter of dismissal and that when he was dismissed he was just told orally but not given a reason.
11. The Tribunal, having listened to the claimant, and having read the claim and the response was concerned as to the strength or otherwise of the claim.
12. I explained to the claimant that I had a concern about the case going immediately for a full hearing without further examination and I explained to him the process leading to a striking out/deposit order hearing, which would be before a different Judge.
13. I think it is fair to say that the claimant was not expecting such a possible process and I therefore gave the claimant, together with his fiancée, time to consider what they should do. They took 10 minutes and when the claimant came back he said that he thought he should withdraw the case. This was because he would have insufficient money to pay a deposit order. I explained to him that I had not yet decided to set down a hearing for striking out or deposit, but that if I did and there was a hearing and the Tribunal was minded to order a deposit it would examine

his ability to pay first, and if there were insufficient means that may or may not result in a striking out.

14. I suggested that the claimant take more time to consider the matter and perhaps even take advice from an agency in respect of which he would not have to pay, but he decided that he would withdraw the claim and this is what has happened.

Employment Judge Shulman

Dated: 15 July 2019

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