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EMPLOYMENT TRIBUNALS

Claimant: Mr D Phillips
Respondent: Atalian Servest AMK Limited
Heard at: East London Hearing Centre
On: Monday 22 July 2019
Before: Employment Judge Jones
Representation
Claimant: Not Present or Represented
Respondent: Ms S Sanders (Counsel)

JUDGMENT

The judgment of the Tribunal is that: -

- 1) The Claimants complaints that he was treated less favourably and/or dismissed -
 - for absence for a dependent who was in hospital with meningitis; and
 - because he wanted to raise concerns of health and safety that could have been seen as whistleblowing

are dismissed because the Claimant has failed to comply with court orders and because his claim has not been actively pursued.

- 2) The hearing dates of 21 and 22 November are vacated.

REASONS

- 1) The Tribunal made case management orders in this matter, which were sent to both parties on 31 May 2019.
- 2) In those orders the Claimant was ordered to prepare and send to the Respondent a properly itemised statement of the remedy he seeks in this claim, by 26 June 2019. The Claimant has failed to comply with this order.
- 3) This matter first came before REJ Taylor on 12 June 2019. That morning the Claimant sent an email to the Tribunal indicating that he would not be able to attend the hearing due to anxiety.
- 4) Counsel for the Respondent attended that hearing. It was apparent to the Tribunal that the Claimant's complaints were unclear and that further details were required before the matter could proceed to a hearing.
- 5) REJ Taylor made appropriate orders for the Claimant to provide further details of his claim so that it could be properly understood by the Respondent and the Tribunal. She also listed today's hearing for further case management.
- 6) It was clearly set out in in the case management summary the details that were required of the Claimant and the clarification that was needed from him.
- 7) The Claimant was ordered to clarify whether he was bringing a public interest disclosure claim and if so, to clarify what the disclosure was, who it had been made to and how the information had been communicated.
- 8) The Claimant was ordered to provide these details by 8 July 2019.
- 9) The Respondent has not had any response from the Claimant in compliance with that court order. The Tribunal has had no information from the Claimant in compliance with that court order.
- 10) Paragraph 6 of those court orders sent to the Claimant stated that if any of the above orders were not complied with, the Tribunal may take such action as it considers just which may include waiving or varying that requirement, striking out the claim or the response, in whole or in part; barring or restricting a party's participation in the proceedings; and/or awarding costs.
- 11) The Claimant also failed to attend court today. The Tribunal has received no communication from the Claimant in respect of this hearing.
- 12) The Tribunal has had no further communication from the Claimant since the Claimant's email on the morning of 12 June to say that he would not be able to attend

court that day.

13) The Claimant has failed to clarify his claims, to comply with court orders, to attend court and to pursue his claims.

14) Under Rule 37 (d) of the Employment Tribunals Rules of Procedure 2013 a Tribunal may, at any stage of the proceedings, either on its own initiative or on the application of a party, strike out all or part of a claim or response if it scandalous or vexatious or has no reasonable prospects of success; for non-compliance with any of these Rules or with an order of the Tribunal and if it has not been actively pursued.

15) It is this Tribunal's judgment that the Claimant has failed to pursue his complaints and is in breach of court orders. There has been no communication from him in relation to today's hearing. The notice of hearing was sent to her 4 July 2019 and the minutes and orders from the preliminary hearing was sent to her on 3 July 2019.

16) Nothing has been heard from the Claimant since his email of 12 June which did not provide more information on his claim.

17) As it stands the claim needs further clarification. Although the claim hints at a protected disclosure issue the Claimant did not actually claim to have made a protected disclosure and been dismissed for it. His grounds of claim attached to his ET1 suggested that he was *about* to make the disclosure. He alleges that he was dismissed because of absence while caring for his partner's child while his partner was in hospital with meningitis but he does not appear to allege that his partner was disabled or he failed to provide that clarification when ordered to do so.

18) As it stands, the claim has little reasonable prospects of success. The Claimant has failed to comply with court orders or to attend the last and today's court hearings. The Claimant is not actively pursuing his claim.

19) For all those reasons, it is appropriate to dismiss the claim

20) The Tribunal's order today is to dismiss the Claim. The Claimant's case is dismissed and the court hearing dates of 21 – 22 November 2019 are vacated.

Employment Judge Jones

31 July 2019