



EMPLOYMENT TRIBUNALS

Between:

Mr A G Badita
Claimant

and

Wheatcroft Sims Associates Ltd
Respondent

At an Open Attended Preliminary Hearing

Held at: Nottingham
On: Thursday 15 August 2019
Before: Employment Judge M Butler (sitting alone)

Representation

For the Claimant: In person
For the Respondent: No attendance

RESERVED JUDGMENT

The judgment of the tribunal is that the claim of direct race discrimination is struck out as having no reasonable prospect of success and being unreasonable and vexatious pursuant to rule 37 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

RESERVED REASONS

1. The Claimant is a Romanian national. By a Claim Form presented on 29 January 2019, he made a claim of direct race discrimination against the Respondent, an employment agency.
2. This preliminary hearing was listed to consider the Claimant's application to strike out the Response (or for a deposit order) and to consider, on the tribunal's own motion, whether the Claim should be struck out.
3. At a preliminary hearing on 11 July 2019 before EJ Hutchinson, the Claimant said that the Respondent discriminated against him on three occasions when

he applied for positions through them on 25 April 2017, 2 November 2018 and 30 December 2018.

4. At the preliminary hearing before me, the Claimant alleged that the Respondent had refused to offer him any of the positions applied for because DHL had told them not to employ him by telling the Respondent that he had been dismissed for sexual misconduct.
5. The Claimant said he was dismissed by DHL on 6 September 2016. He had brought two claims against DHL in the Midlands (West) Region, which he said he had already won. When pressed as to whether he had a judgment in his favour against DHL, he said his case had been postponed for 8 months and that this was as a result of interference by the British Government.
6. The Claimant submitted a collection of documents which he referred to in the hearing. He said that DHL had admitted telling the Respondent and others that they had lied about accusing him of sexual misconduct. In this regard, he relied upon the letter from DHL to him dated 20 July 2018 in which his subject access request was refused due to the data regarding his alleged misconduct making reference to third parties who had not consented to its disclosure. I pointed out to the Claimant that this did not amount to an admission that he had been blacklisted as a sex offender by DHL.
7. The Claimant then said he had successfully appealed the decision to refuse disclosure of this data. In fact, what he did was to complain to the Information Commissioner who dismissed his complaint. He appealed that decision to the First Tier Tribunal (General Regulatory Chamber) (FTGRC) on 22 March 2019. On 24 April 2019, the FTGRC struck out the Claimant's appeal on the grounds it had no reasonable prospect of succeeding. On 15 May 2019, the Claimant sought a reconsideration of that decision on the ground that the FTGRC had been intimidated by the former Prime Minister and accused her of *"blocking all my trials everywhere (employment tribunal – 72 cases, administrative court). At London Central tribunal, the Respondents have bribed the Judge for striking me out for most obvious and plainest cases ..."*.
8. I asked the Claimant to give specific details of his relationship with the Respondent. He accepted he had never been their employee and had only ever applied for the three positions already mentioned which the Respondent had advertised. He said the Respondent had wanted to employ him but had been told not to by DHL and the British Government.
9. The Response Form completed by the Respondent confirms he was never employed by them. Further, the CV he submitted made no reference to his employment at DHL, only to his previous employment in Romania. The position he had applied for was filled by the Respondent's client directly so they had no need to take up references and had no contact with DHL regarding the Claimant.
10. The Claimant pressed me to strike out the Response but I indicated I was not prepared to do that but, in accordance with EJ Hutchinson's previous order, I

was considering striking out his claim on the ground that it had no reasonable prospect of success. This did not go down well with the Claimant, who demanded to know why I was considering this course of action.

11. I explained to him that it seemed to me his complaint was against DHL and that the Respondent in this case was nothing more than an innocent bystander. The Claimant replied that he had proof of what had happened and that I should order the Respondent to disclose documents. He said the Respondent was lying when they said they had no documents.
12. I indicated to the Claimant that I would consider the matter further and would reserve my judgment.
13. A short time after the hearing, the Claimant emailed further documents to the tribunal office. These were copies of his emails to the Prime Minister, Home Secretary and Justice Secretary in which he complains of infringements of his civil rights and bribery and intimidation by DHL and those in government office.
14. Rule 37 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 provides:

37.—(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—

- (a) that it is scandalous or vexatious or has no reasonable prospect of success;*
- (b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;*

...”

15. I remind myself that it in discrimination cases it is not appropriate to strike out a claim where there are facts which ought properly to be decided by a tribunal. No reasonable prospects of success means precisely that, no reasonable prospects, and there is no middle ground (see ***Ezsias v The North Glamorgan NHS Trust [2007] EWCA Civ 330***).
16. In this case, however, there is no evidence before me that the Respondent has been influenced at all in its dealings with the Claimant, either by DHL, the British Government or any other person, body or organisation. The claim is made based on the Claimant's illogical speculation and a conspiracy theory involving a large multi-national company, the Government and the courts system. It is a claim in which I find absolutely no merit and I strike it out under Rule 37(1)(a).

Employment Judge M Butler
Date 21 August 2019

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

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