



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4100523/2017

Judgment made in Chambers on 31 July 2019

Employment Judge I McFatridge

Ms N Pennycook

Claimant

Ryscot Limited (now dissolved)

Respondent

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The claim is struck out as having no reasonable prospect of success.

REASONS

1. Reference is made to the previous notes in this case including the note issued by EJ d'Inverno on 1 May 2018 and the note issued by me on 4 March 2019.
2. In this case the claimant makes various claims against the respondent. The respondent was dissolved in January 2018. Since that date it has been impossible for the Tribunal to hear the claim.
3. In May 2018 this situation was made clear to the claimant by Judge d'Inverno who sisted the case to allow the claimant to take advice on the options open to her and to decide whether she wished to pursue either of two options which were discussed at ETZ4(WR)

that hearing. At that time he considered it was in line with the overriding objective to leave the proceedings alive for a short time for this purpose.

4. In March 2019 the case had been listed but could not proceed as the claimant had not taken either of the suggested steps and it remained the position that the claim was directed at an entity which had no legal existence and therefore could not proceed. At that time the tribunal considered that it was still in line with the overriding objective to leave the proceedings alive so that the claimant would have a further opportunity to consider her options. The situation was again made clear to the claimant and the case was sisted for 3 months to enable the claimant to either obtain a court order restoring the respondent to the register or apply to amend the claim to include another respondent.
5. The claimant has done neither of these things.
6. The claimant in her latest correspondence, makes it clear she wishes to pursue the claim but does not indicate she will be pursuing either of these two options.
7. She believes the Tribunal is somehow at fault in not preventing the respondents being struck off and she wishes to pursue this complaint elsewhere. That is a matter for her, however, it is my understanding that there is absolutely no legal provision which would have allowed the Tribunal to intervene.
8. In the meantime, I have to decide what happens to the outstanding claim. As it stands it cannot proceed. The claimant has made it clear she does not intend to take either of the two suggested actions. There is a strong public policy objective that claims of discrimination are properly considered but at the end of the day the legal reality is that the Tribunal cannot hear a claim against a respondent that no longer exists.
9. The claimant was advised on 27 June to set out her intentions as regards two possible options for continuing the claim and has not indicated she is doing either of

them. She was advised if she did not do so the claim would likely be dismissed as having no reasonable prospects of success.

10. The claim clearly has no reasonable prospect of success and in the circumstances I consider it should now be dismissed.

Date of Judgement: 31st July 2019
Employment Judge: Ian McFatridge
Entered in the Register: 1st August 2019
And Copied to Parties