



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr Sebastian West

v

HHGL Limited

Heard at: Watford

On: 9 May 2019

Before: Employment Judge C Palmer

Appearances

For the Claimant: In person

For the Respondent: Ms M S Crew, Counsel

JUDGMENT

1. The unless order of Employment Judge Lewis, made on 29 April 2019, and order to strike out the claims made by Employment Judge Manley (on 8 May 2019) stand, except that the Manley order was intended to strike out of all the discrimination claims (age, disability and sex) and for the avoidance of doubt these are struck out.
2. The claim for unfair dismissal is dismissed as the claimant does not have two years' service.
3. The claim for redundancy payment is dismissed as the claimant does not have two years' service.
4. The claim relating to "protected disclosure" which was not described further is struck out, it having no reasonable prospect of success.
5. The claim for other payments and arrears are struck out as they have no reasonable prospect of success.

REASONS

The claims and orders

1. The claimant was employed by the respondent in a services sales floor role between 29 April 2018 and 5 July 2018. He was summarily dismissed for

**Case Numbers: 3333952/2018, 3334617/2018
3334618/2018, 3334619/2018**

gross misconduct on 5 July. The claimant has filed four separate but almost identical claim forms in 2018 which are as follows:

- 1.1 Claim 3333952 against Homebase Limited, filed on 5 October 2018 following an early conciliation period of 23 August 2018 to 23 September 2018. He claims unfair dismissal, age discrimination, disability discrimination, sex discrimination, other payments, protected disclosure. The claimant refers to other types of claims of victimisation, equal opportunity prevention – via direct and indirect discrimination in application for a career based role.
 - 1.2 Case 3334617 against HHGL Limited, filed on 4 November 2018, following an early conciliation period from 4 October to 4 November 2018. The claims are the same as in the first claim but with an additional claim for redundancy payment.
 - 1.3 Case 3334618 against Hilco Capital Limited, filed on 4 November 2018, following an early conciliation period from 4 October to 4 November 2018. The claims are the same as the second claim with an additional claim for arrears of pay and failure to grant personal data information relating to health and safety in the public company and colleague interest.
 - 1.4 Case 3334619 was against Hilco Capital Limited, filed on 5 November 2018, following an early conciliation period of 4 October to 4 November 2018. The claim is for unfair dismissal, age, disability and sex discrimination, redundancy payment, arrears of other payments.
2. The claims made by the claimant contain little or no information to support the claims he made, except to set out that the claimant was dismissed for gross misconduct because of his behaviour on 15 June 2018.
 3. The parties agreed that the correct respondent is HHGL Limited, the company name being changed to this on 23 December 2016.
 4. The respondent is a home enhancement retailer. The claimant was employed on a fixed term contract which was due to expire on 21 July 2018.
 5. In the first ET3 and subsequent responses and correspondence, the respondent requested that the preliminary hearing be converted to an open preliminary hearing in order for the tribunal to consider whether to strike out the claimant's claim on the grounds that they had no reasonable prospect of success or make a deposit order as a condition of continuing with these claims on the grounds that they had little prospect of success.
 6. On 11 January 2019, Employment Judge Lewis ordered the claimant, by 31 January 2019, to send the respondent and tribunal a list, in date order of the events of discrimination which he was asking the tribunal to decide. (page 127).

7. After the order of 11 January, the claimant called the tribunal to say that he had asked the respondent to help with funds to put his documents together for the hearing. He said he was currently detained under the Mental Act. The clerk explained that if he could not comply with the order, he needs to inform the tribunal about his circumstances or a doctor to inform us.
8. On 4 February 2019, the respondent applied for an Unless Order as the claimant had not provided the information ordered by Employment Judge Lewis. This was necessary for the respondent to understand the legal basis of the claimant's discrimination claims and the facts on which he relied.
9. On 20 March 2019, Employment Judge Lewis made an Order that the claimant send to the tribunal and the respondents, a list of all events which he asked the tribunal to decide were matters of discrimination on grounds of age and/or disability and/or sex. (page 170).
10. On 9 April the respondent asked the tribunal to issue an Unless Order, (page 176) on the basis that the claimant had not provided the further information ordered by Employment Judge Lewis. (page 176 and 177)
11. On 29 April, Employment Judge Lewis made an Unless Order that claimant must provide details of his discriminations claims as set out in the Order of 20 March 2019, on or before 8am on 7 May 2019. The order stated that failure to comply would result in the claims of age discrimination, disability discrimination and sex discrimination being dismissed without further Order. (page 177a)
12. On 8 May 2019, Employment Judge Manley ordered that the claimant's claims for age discrimination be struck out as he had failed to comply with the unless order on 29 April 2019. The Order said that the open preliminary hearing would consider the remaining matters. This order should have included the claims for sex and disability discrimination being struck out as they were included in the Unless Order (page 177c).
13. The issue for this preliminary hearing is to decide whether any claims remain.

Evidence

14. There is a bundle of documents provided by the respondent and an opening note on their behalf. I heard evidence from the claimant. I find the following relevant facts.

Facts

15. The claimant was dismissed after ignoring an instruction to move some trolleys blocking the walkways and then slamming the trolleys. This led to shelves and bars from the trolleys spilling across the store floor. There was an investigation and disciplinary hearing which resulted in the

claimant's dismissal. The claimant appealed and his appeal was dismissed.

16. I accept the respondent's explanation in the ET3 about why the claimant was dismissed in that it was due to his behaviour on 15 June 2018.
17. The claimant said he could not provide the further information, which was requested then ordered by the tribunal, because he was in hospital between January and March 2019.
18. The claimant could not remember exactly when he was in hospital. He was initially in Edgware Community Hospital then moved to St Ann's. He had no documentary evidence but I accept that the claimant was in hospital during most of this period.
19. After the Order of 11 January, 2019 the claimant called the tribunal saying he needed help with funds to put documents together and that he was currently detained under the Mental Act. The claimant was told, according to a note from the tribunal file, that if he could not comply with the Order, he needed to tell the tribunal about his circumstances, or get a doctor to inform the tribunal. He did not do this.
20. The claimant was no longer in hospital by the beginning of April 2019 but he was still under the care of the hospital and was homeless for a period. He was also looking for work.
21. In 2018, the claimant sought advice from Citizens Advice, Islington. He called them again in 2019 but was told to call back the following day which he did not do, saying he had to go to the job centre.
22. In relation to the wages claim, the claimant said his manager told him that he would sign in for him, even when the claimant arrived at work before him. This meant that he was not paid for the work he said he had done before his manager arrived. There was no evidence to support this and I do not find it credible.

Conclusions

23. I find that the claimant could have provided the further information required in the period between 4 April and 8 May 2019. He was told he should inform the tribunal if he could not comply with the Order and he could have obtained advice from Citizens Advice. He did neither. The Order to strike out all the discrimination claims stands.
24. The claim for protected disclosure was not set out at all in the claim forms and at the preliminary hearing the claimant was unable to explain what protected disclosures he had made and to who and when. He referred to health and safety issues such as equipment laying on the floor but none of this was referred to in the claim form. I find there are no reasonable prospects of this claim succeeding.

25. The claimant had not been employed for two years so cannot claim unfair dismissal or redundancy payments. These claims are dismissed.
26. There was no information about the claim for other payments or arrears of pay, except that the claimant said his manager told him he would clock in for him and this only happened after the claimant had actually started work, so he was owed money for the period he was working but not clocked in. This information was not included in any of the claim forms and there is no credible evidence to support it. I find that these claims have no reasonable prospect of success.
27. This means that all claims are dismissed and there are no remaining claims to be heard.

Employment Judge C Palmer

Date:24th May 2019

Sent to the parties on: ...29th May 2019

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For the Tribunal Office

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.