



THE EMPLOYMENT TRIBUNALS

Claimant: Mrs J Ladd

Respondent: Mariposa Care Group Limited

Heard at: North Shields Hearing Centre On: Tuesday 26th November 2019

Before: Employment Judge B N Speker OBE DL

Representation:

Claimant: In Person

Respondent: Mr Moorhead of Counsel

JUDGMENT

This claim for unauthorised deduction of wages is dismissed.

REASONS

1. The claimant attended without representation but was accompanied by her father who was permitted to speak on her behalf on a number of occasions but ultimately left the hearing in some indignance as to the process and the conduct of the claimant's employer.
2. The claim form submitted by Mrs Ladd was completed at Section 8 indicating that her claim was that she was owed arrears of pay and "other payments." In the narrative in the claim form she made brief reference to being forced to go on the sick for a couple of months by her line manager and area manager and that she was forced to carry on being on the sick because of instructions or advice from her employer. She conceded that she had been in receipt of statutory sick pay. In section 9.2 of the form she stated that she wished to be reimbursed for loss of earnings and also stated that she wished disciplinary action to be rescinded as to her final warning which had been given. Also she asked for financial compensation for stress caused by the company forcing her to be on the sick, causing "stress related anxiety and social anxiety".

3. The respondent had filed a response disputing the claim and suggesting that it had no reasonable prospect of success and was misconceived. It was also stated that the claimant had received all payments to which she was entitled, including statutory sick pay, and denying that at any stage the respondent had instructed or required the claimant to remain off work. The claimant's absences were supported by appropriate fit notes.
4. As at the date of this hearing, the claimant remains in the employment of the respondent and is currently on the sick with a fit note to expire on Monday 2nd December.
5. The respondent had filed a bundle of documents running to sixty-six pages including the contract of employment, fit notes and letters and e-mails with respect to the claimant's sickness absences. The bundle did not include any documentation with respect to the disciplinary action taken against the claimant leading to the final written warning or to the appeal or the grievance which had been investigated and not upheld.
6. In seeking to identify the issues from Mrs Ladd, it appeared that her complaints involved the way in which she had been treated by the respondent with regard to matters leading to the disciplinary action taken against her and that this resulted in her absence from work due to anxiety. She maintained that but for the actions of the employer, she would have returned to work and had therefore lost earnings as a result of the unreasonable conduct of the respondent employer. She was not able to put in terms precisely what was the legal basis of the claim she was bringing to the Tribunal to establish the Tribunal had statutory jurisdiction.
7. I explained the process of the Tribunal and the need to clarify any particular legal head of claim which was being brought for adjudication. In asking Mrs Ladd precisely what she was claiming, she was unable to provide any details and produced no calculation of any kind as to compensation. She had handed to the Tribunal this morning a brown envelope containing miscellaneous further letters in envelopes as well as copies of her GP records, none of which had been disclosed to the respondent despite, they said, a request. In answer to this Mrs Ladd said that she had been making requests for documentation from the respondent which had not been answered. She stated that she had informed the Tribunal of this. It transpired that there was an e-mail sent by the claimant on 25th November, the day before this hearing, which was the only indication that she had written to the Tribunal asking for assistance from the Tribunal. She said that she had had communications with ACAS to try to get help with the case.
8. Mrs Harvinder Sehmbey attended the Tribunal pursuant to a witness order issued by the direction of Employment Judge Sweeney dated 13th November 2019. A statement was provided from her. She was formerly employed by the respondent as Senior HR Business Partner. The statement categorically denied that she had made any suggestion or given any advice to the claimant to the effect that she should stay on sick leave. Mrs Sehmbey referred to welfare meetings which she had held with the claimant, one in person and one by telephone, during which time the claimant had suggested that she would stay on the sick until "everything

was sorted out". Mrs Sehbey denied the allegation by the claimant that she had said "I can't blame you for being on the sick". Mrs Sehbey also categorically denied having told Mrs Ladd that she should stay on sick leave or that she had encouraged or persuaded her to do so in any way.

9. I pointed out to Mrs Ladd that the issues which she currently had with the respondent and was wishing to raise appeared to be internal matters between employer and employee. If these were in relation to further issues which had arisen since her earlier grievance was lodged then she should again lodge a grievance with her employer and seek to have the matters resolved. If, as she suggested, she was being bullied then this was a matter which she should take up with her employer. However, this was not the claim which she had issued in the Tribunal.
10. On the basis of the information to hand and the representations made by the claimant and the respondent, it is clear to me that the claimant has not established that there is any valid claim argued on which she is entitled to receive any payment of wages for any period during her employment for which she has not already been paid. There is no valid claim to the Tribunal set out in her application upon which the Tribunal has jurisdiction. Accordingly the claim is dismissed.

EMPLOYMENT JUDGE SPEKER

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON 9 December 2019**

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