



EMPLOYMENT TRIBUNALS

Between:

Mr M Jowett
Claimant

and

Health and Safety Executive
Respondent

RECORD OF A CLOSED TELEPHONE PRELIMINARY HEARING

Heard at: Nottingham

On: 21 July 2020

Before: Employment Judge P Britton (sitting alone)

Representation

For the Claimant:

In person

For the Respondent:

Mr J Feeny of Counsel

JUDGMENT

- 1 The claims for unfair dismissal and indirect discrimination are dismissed upon withdrawal.
2. The remaining claims based upon direct discrimination including by perception pursuant to s13; unfavourable treatment pursuant to s15; and failure to make reasonable adjustment pursuant to s20-22; all references being to the Equality Act 2010; and also for Breach of Contract; will proceed to a hearing before a Tribunal.
3. Orders thereto are hereinafter set out.

CASE MANAGEMENT SUMMARY

Introduction

1. I heard a lengthy TCMPH on 9 April 2020 and my orders were eventually published on 26 May 2020.
2. The Claimant complied with the same including the medical evidence relating to the disabling conditions relied upon.

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3. The Respondent then replied as directed stating that in the light of the same it did not accept that the Claimant was disabled.
4. In the discussion before me today, it was agreed that determination of that issue should be left to the main hearing inter alia because of the fall back position of the Claimant based upon disability by perception as to which I rehearsed in my published account of the last hearing.
5. By consent I have today listed the main hearing before a Tribunal panel and made directions.
6. I observed that were it not for the current schedule of loss whereby the Claimant seeks over £600k, this case would be eminently suitable for judicial mediation. As I did last time, I urged the Claimant to get some legal advice.

ORDERS

Made pursuant to the Employment Tribunal Rules 2013

1. The case is hereby listed for 5 days commencing **Monday 12 July 2021** at the Nottingham Employment Tribunal Hearing Centre, 50 Carrington Street, Nottingham NG1 7FG commencing at 10 am. The Tribunal will first determine liability and, depending on the outcome, move onto remedy should time permit.
2. The first morning will be a **reading in** period for the Tribunal. The attended hearing will start at 2pm prompt on 12 July 2021.
3. By **28 days** from the publication of these orders, the Respondent will serve it amended response.
4. By **23 October 2020**, the Respondent send the Claimant copies of the documents it proposes should be in the Hearing Bundle.
5. The Claimant will then reply by **6 November** as to what further documents he requires in the bundle and copying the same to the Respondent, if he has not done so already.
6. By not later than **20 November 2020**, a single bundle of documents is to be agreed. The Respondent will have conduct for the preparation of the bundle. The bundle is to be bound, indexed and paginated. The bundle should only include the following documents:
 - the Claim Form, the Response Form, any amendments to the grounds of complaint or response and case management orders if relevant;
 - documents which will be referred to by a witness;
 - documents which will be referred to in cross-examination;

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- other documents to which the tribunal's attention will be specifically drawn or which they will be asked to take into consideration.

In preparing the bundle the following rules must be observed:

- unless there is good reason to do so (e.g. there are different versions of one document in existence and the difference is material to the case or authenticity is disputed) only one copy of each document (including documents in email streams) is to be included in the bundle
- the documents in the bundle must follow a logical sequence which should normally either be simple chronological order or chronological order within a number of defined themes e.g. medical reports, grievances etc
- correspondence between the tribunal and the parties, notices of hearing, location maps for the tribunal and other documents which do not form part of either party's case should never be included.

Unless an Employment Judge has ordered otherwise, bundles of documents should not be sent to the tribunal in advance of the hearing.

7. By not later than **29 January 2021**, there is to be mutual exchange of witness statements. The witness statements are to be cross-referenced to the bundle and will be the witness's main evidence. The tribunal will not normally listen to witnesses or evidence not included in the exchanged statements. The Claimant's witness statement must include a statement of the amount of compensation or damages they are claiming, together with an explanation of how it has been calculated and a description of their attempts to find employment. If they have found a new job, they must give the start date and their take home pay. Witness statements should not routinely include a précis of any document which the tribunal is to be asked to read. Witnesses may of course refer in their witness statements to passages from the documents which are of particular importance, or to the inferences which they drew from those passages, or to the conclusions that they wish the tribunal to draw from the document as a whole.
8. The Respondent will ensure that for the purposes of the reading in three copies of the Hearing bundle; combined witness statements bundle; a chronology and a cast list are delivered to the Tribunal offices in Nottingham for the purposes of the reading in not later than two working days beforehand.

NOTES

- (i) **The above Order has been fully explained to the parties and all compliance dates stand even if this written record of the Order is not received until after compliance dates have passed.**

(ii) Failure to comply with an order for disclosure may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under s.7(4) of the Employment Tribunals Act 1996.

(iii) The Tribunal may also make a further order (an “unless order”) providing that unless it is complied with, the claim or, as the case may be, the response shall be struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice or hold a preliminary hearing or a hearing.

(iv) An order may be varied or revoked upon application by a person affected by the order or by a judge on his/her own initiative. Any further applications should be made on receipt of this Order or as soon as possible. The attention of the parties is drawn to the Presidential Guidance on ‘General Case Management’:

<https://www.judiciary.gov.uk/wp-content/uploads/2013/08/presidential-guidance-general-case-management-20170406-3.2.pdf>

(iv) The parties are reminded of rule 92: “*Where a party sends a communication to the Tribunal (except an application under rule 32) it shall send a copy to all other parties, and state that it has done so (by use of “cc” or otherwise). The Tribunal may order a departure from this rule where it considers it in the interests of justice to do so.*” If, when writing to the tribunal, the parties do not comply with this rule, the tribunal may decide not to consider what they have written.

Employment Judge P Britton

Date: 21 July 2020

Sent to the parties on:

24/07/2020

For the Tribunal: