



EMPLOYMENT TRIBUNALS

Claimant: Miss C Wise

Respondent: Home Office

RECORD OF A PRELIMINARY HEARING

Heard at: Watford by telephone **On:** 4 December 2019

Before: Employment Judge R Lewis

Appearances:

For the claimant: Ms L Moreton, ISU

For the respondent: Mr D Howard, GLS

CASE MANAGEMENT SUMMARY

Final hearing

1. The issue of liability only will be determined at a final hearing before an Employment Judge sitting **with members** at the Employment Tribunals, **Radius House, Clarendon Road, Watford WD17 1HP**, on eight days **9-18 December 2020** starting at 10 am or as soon as possible afterwards.
2. While no formal timetable is set at this stage, this allocation of time includes all time required for pre-reading and case management at the start of the hearing; oral evidence, including cross examination, on both sides; closing submissions; deliberation and delivery of judgment, with, if required, case management of a remedy hearing.
3. Either party **must** inform the Tribunal as soon as possible if either thinks there is a significant risk of the time estimate being insufficient and/or of the case not being ready for the final hearing.

The claim

4. The claimant has been employed by the respondent for over thirty years. She is a representative of ISU. She brings complaints which are that in a number of respects she has suffered detriment on grounds of her union activities.

5. I was told that the claimant may face dismissal as a result of long term-absence. Neither representative asked me to make any order contingent on that event and / or on presentation of a second claim. Neither party has applied for judicial mediation.
6. I record my gratitude for the high degree of co-operation and professionalism shown on both sides during this hearing.

The issues

7. The issues between the parties which potentially fall to be determined by the Tribunal are agreed to have been set out **definitively** in the Agenda for this hearing.
8. The representatives said that there was little dispute about matters of primary fact. I questioned whether issues 1, 5, 7 and 12 were sufficiently clear to the respondent to be able to be fairly defended. Mr Howard confirmed that given the history of grievances, they are, and there is no request for additional information.
9. I have suggested to the parties that evidence which goes to whether grievance investigators and hearers, or other colleagues, thought the claimant's complaints to be well-founded, might not greatly assist the tribunal which has to decide the same issues for itself on the evidence.

Other matters

10. The attention of the parties is drawn to the Presidential Guidance on 'General Case Management', which can be found at:
www.judiciary.gov.uk/publications/employment-rules-and-legislation-practice-directions/.
11. 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)...*". **If, when writing to the tribunal, the parties don't comply with this rule, the tribunal may decide not to consider what they have written.**
12. The parties are also reminded of their obligation under rule 2 to assist the Tribunal to further the overriding objective and in particular to co-operate generally with other parties and with the Tribunal.
13. All judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

ORDERS

Made pursuant to the Employment Tribunal Rules of Procedure

1. Agreed statements

- 1.1 By consent the parties will no later than **31 January 2020** send to the tribunal the following which are to be agreed so far as possible, and where not fully agreed to identify the extent of disagreement: a statement of background facts; a chronology; and a who's who.

2. Documents

- 2.1 On or before **28 February 2020** the claimant and the respondent shall send each other a list of all documents that they wish to refer to at the final hearing or which are relevant to any issue in the case, including the issue of remedy. They shall send each other a copy of any of these documents if requested to do so.
- 2.2 The parties remain under a duty of disclosure even after exchanging the above lists. That means that if a party later finds an item which should be included in the list but wasn't, the item must be disclosed at once in accordance with the above procedure.

3. Final hearing bundle

- 3.1 By **27 March 2020**, the parties must agree which documents are going to be used at the final hearing. The respondent must paginate and index the documents, put them into one or more files ("bundle"), and provide the claimant with a 'hard' and an electronic copy of the bundle by **24 April 2020**. The bundle should only include documents relevant to any disputed issue in the case, and should only include the following documents:
 - the Claim Form, the Response Form, any amendments to the grounds of complaint or response, any additional / further information and/or further particulars of the claim or of the response, this written record of a preliminary hearing and any other case management orders that are relevant. These must be put right at the start of the bundle, in chronological order, with all the other documents after them;
 - documents that will be referred to at the final hearing and/or that the Tribunal will be asked to take into account.

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 relevant 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 be simple chronological order.

4. Witness statements

- 4.1 The claimant and the respondent shall prepare full written statements containing all of the evidence they and their witnesses intend to give at the final hearing.
- 4.2 The parties are to exchange their witness statements by **26 June 2020**.
- 4.3 No additional witness evidence will be allowed at the final hearing without the Tribunal's permission.
- 4.4 The written statements must: have numbered paragraphs; be cross-referenced to the bundle(s); and contain only evidence relevant to issues in the case.

5. What to bring to the hearing

- 5.1 The parties are responsible for bringing the following to the hearing:
- 5.2 The respondent to bring at least four additional copies of the bundle, and of the agreed statement(s);
- 5.3 Both parties to bring at least five additional copies of their witness statements;
- 5.4 Each party is to bring four hard copies of any submissions or skeleton argument to be relied on, and one copy of any reported authority relied on.

6. Other matters

- 6.1 All orders must be complied with even if this written record of the hearing is received after the date for compliance has passed.
- 6.2 Anyone affected by any of these orders may apply for it to be varied, suspended or set aside. Any further applications should be made on receipt of these orders or as soon as possible.
- 6.3 The parties may by agreement vary the dates specified in any order by up to 14 days without the tribunal's permission except that no variation may be agreed where that might affect the hearing date. The tribunal must be told about any agreed variation before it comes into effect.
- 6.4 **Any person who without reasonable excuse fails to comply with a Tribunal Order for the disclosure of documents commits a criminal offence and is liable, if convicted in the Magistrates Court, to a fine of up to £1,000.00.**
- 6.5 **Under rule 6, if any of the above orders is not complied with, the Tribunal may take such action as it considers just which may include: (a) waiving or varying the requirement; (b) striking out the claim or the response, in whole or in part, in accordance with rule 37; (c) barring or**

restricting a party's participation in the proceedings; and/or (d) awarding costs in accordance with rule 74-84.

Employment Judge R Lewis 29/07/2020

Sent to the parties on:10/09/2020

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For the Tribunal:

Jon Marlowe