



# EMPLOYMENT TRIBUNALS

**Claimant:**  
Mr C L Medlock

v

**Respondent:**  
Koru Kids Limited

## JUDGMENT

1. The claimant's claims of age discrimination and for other payments are dismissed.
2. The claimant's claim of sex discrimination can proceed and will be the subject of a case management hearing and further directions.

## REASONS

1. On 17 December 2019 the claimant submitted a claim of age discrimination, sex discrimination and for other payments against the respondent. In his grounds of claim he says that he applied to the respondent for work as a nanny, and he includes a series of email exchanges he then had with the respondent, which he concludes:

*"Ok so long as ... it [the refusal of work] isn't because I'm a man."*

The respondent replies:

*"We have plenty of male nannies ... we are just looking for a little more experience than you have."*

2. The respondent submitted a response defending the claim on a number of grounds, concluding:

*"The claimant complains that he was discriminated against on the grounds of gender and age but does not provide any explanation or evidence for his claims. Nothing in the email correspondence the claimant provided in his claim suggests any type of discrimination against him."*

3. On consideration under rule 27 I prepared a notice and order setting out my view that the claims had no reasonable prospect of success as "*no particulars have been given from which the tribunal could conclude that the claimant has a claim with any prospect of success*". In other words, even if what the claimant said in his claim form was completely true it did not give rise to any of the claims he sought to bring. This was signed by me on 15 April 2020, giving a deadline of 22 May 2020 for a response. It appears,

however, that it was not promulgated by the tribunal staff and sent to the parties until 20 May 2020.

4. The claimant submitted a response received by the tribunal on 29 May 2020. In this he explains that he had only been given two days to respond, and needed to find a computer so he could view the PDF file sent by the tribunal. He says:

*“I have many screenshots of the job advert from November 2019 to March 2020 and they clearly state ‘no experience required’. [The respondent has] continually moved the goal post in emails making excuses for not employing me and would not give me a valid reason for denying me employment.”*

5. This was eventually referred to me for consideration on 23 August 2020.
6. I had not expected that it would take so long for the tribunal to promulgate the original notice and order, and I accept that the claimant should have had longer than two days to respond. I take the claimant’s response to include an application for retrospective variation of the time limit on the notice and order under rule 5, which I grant (or, failing that, as being an application to set aside an unless order under rule 38(2), which is granted in the terms set out below).
7. The essence of the claimant’s response is that in the light of the terms of the advertisement the reason (or one of the reasons) he was given for the failure of his application – lack of experience – cannot be true. I accept (without commenting on whether it actually does so in this case) that in principle giving incorrect or contradictory reasons for refusing a job can in some cases give rise to an inference of discrimination and so the claimant has now made out a possible case, but the only reference he has made is to his sex. There is nothing in any of this that is to do with his age or gives rise to any claim for ‘other payments’. The sex discrimination claim can proceed and will be listed for a further case management hearing but the other claims are dismissed as set out above under the terms of the rule 27 notice. The claimant should, however, carefully consider whether he wishes to continue with his sex discrimination case in the light of the points made by the respondent in their defence.

**Employment Judge Anstis**

Date: 2 September 2020

Judgment and Reasons

Sent to the parties on: 17/09/2020

Jon Marlowe

For the Tribunal Office

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