



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr T Smith

**Respondent:** IMI Precision Engineering t/a IMI Webber Ltd

## JUDGMENT

The claim of discrimination on the grounds of sexual orientation is struck out. The claim of unfair dismissal may proceed and will not be subject to a deposit order.

## REASONS

1. By a letter dated 2 September 2020 and 25 September 2020, the parties were notified that a Preliminary Hearing would be conducted to (i) consider the contention that the claimant's claim of sexual orientation discrimination should be dismissed under Rule 37 on the basis that it has no reasonable prospect of success (ii) consider whether to make a deposit order under R39 in relation to any of the claimant's claims.
2. The Preliminary Hearing took place before me on 10 November 2020.
3. I have not been satisfied that there is any prospect that the claim for sexual orientation discrimination will succeed. There is no proper basis to make a causal link between the decision to dismiss the claimant and his sexual orientation.
4. I am satisfied that there is an arguable case for unfair dismissal on the basis (i) of Mr Castle determining that the charge of misconduct would be increased to gross misconduct and then dismissing on that basis but it being unclear why that course of action was pursued (ii) there being some email correspondence that appears to suggest that those in the HR department expressed some concern that matters were being dealt with too harshly. I have therefore permitted that claim to proceed and have not put the claimant under a deposit to do so. I am unable to conclude that that case stands little reasonable prospect of success on the basis of the case as I understand it.
5. A Case Management Order has been issued which gives directions to determine the claim of unfair dismissal.

10 November 2020

Employment Judge Christensen

JUDGMENT SENT TO THE PARTIES ON 1  
December 2020 by e-mail only

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FOR THE TRIBUNAL OFFICE