



# EMPLOYMENT TRIBUNALS

Claimant

Respondent

Dr R J Heal

v

Health Education England

At the London Central Employment Tribunal

On 5 February 2021

Before Employment Judge A James

## Appearances

For the claimant: Did not attend and was not represented

For the respondents: Mr A P Gibson, solicitor

## JUDGMENT

(1) These claims having been withdrawn by the claimant, they are dismissed on withdrawal (Employment Tribunal Rules of Procedure 2013 Rule 52).

## REASONS

1. It is not disputed that the claimant has withdrawn the claims against the above respondent, with the above case numbers.
2. Rule 52 of the Employment Tribunal Rules of Procedure 2013 states:

*Where a claim, or part of it, has been withdrawn under rule 51, the Tribunal shall issue a judgment dismissing it (which means that the claimant may not commence a further claim against the respondent raising the same, or substantially the same, complaint) unless -*

*(a) the claimant has expressed at the time of withdrawal a wish to reserve the right to bring such a further claim and the Tribunal is satisfied that there would be legitimate reason for doing so; or*

*(b) the Tribunal believes that to issue such a judgment would not be in the interests of justice.*

3. In a case management order dated 24 December 2020, following a preliminary hearing held between 1 and 4 December 2020, the claimant was ordered to provide the following information to the respondent HEE and to the tribunal **by 4pm on Friday 22 January 2021**, on no more than 2 pages:
  - a. *What further claims does the claimant intending to bring, either in the Employment Tribunal, or the County Court, against HEE, if any?*
  - b. *What, briefly, is the legal and factual basis of those claims?*
  - c. *Have any such claims been taken to date, if so what, and when; and what is the current status of those claims?*
  - d. *If no such claims have been taken to date, when does the claimant intend to bring any such claims against HEE, if at all?*
4. The claimant failed to comply with that order. Instead, in an email sent to the ET at 16.45 on 4 February 2021, he stated the following:

*The Employment Tribunal Services does not possess any jurisdiction to request nor evaluate nor rule on legal arguments for potential legal claims that are under the jurisdiction of the County Court.*

*EJ A James has no jurisdiction to demand the Claimant submit legal/skeleton arguments/evidence for claims that are not within the jurisdiction of the Employment Tribunal. EJ A James has already exceeded the jurisdiction of the Employment Tribunal by making such post hoc comments within a judgement issued in respect of the Claimant v Newcastle University et al.*

*The record shows an experienced Employment Tribunal Judge had already issued a judgement that claims withdrawn by the Claimant must **not** be dismissed; because the Claimant had already successfully argued that dismissal of claims was prejudicial to potential claims to be heard in other Courts. The Respondents (notably HEE) are fully aware of the existing ruling that withdrawn claims not be dismissed.*

*A number of parties including HEE have been properly put on notice of potential legal claims in the County Court. The Claimant has complied with the Master of the Rolls Pre-Action Protocol; unlike the potential Defendants who have not complied. The Employment Tribunal Service does not possess jurisdiction to interfere in or prevent claims being heard that are within the jurisdiction of the County Court and possible Higher Courts (such as brought under provision of the Fraud Act 2006).*

5. In the light of the response provided, and the clear and mandatory wording of Rule 52, Mr Gibson requests that these claims be dismissed.

### **Conclusion**

6. I have considered the very clear wording of rule 52 of the 2013 Rules. I have taken due notice that the claimant stated at the time that he withdrew the claims that he wished to reserve the right to bring further claims elsewhere, which raise the same, or potentially the same, complaint. The claimant has been given an opportunity to provide information so that I can be satisfied that there is a

legitimate reason for doing so. He has failed to provide any such information. Instead he has responded in the terms set out above. The claimant clearly misunderstands the tribunal's role in relation to Rule 52. The rule requires withdrawn claims to be dismissed unless three conditions are satisfied.

7. First, a claimant must have "*expressed at the time of withdrawal a wish to reserve the right to bring such a further claim*". That condition is plainly satisfied.
8. Second, the Tribunal must be "*satisfied that there would be legitimate reason for doing so*". The Tribunal cannot be satisfied that there is a legitimate reason for the claimant doing so, in the light of his response. Further, given the history of this litigation so far, and the findings that the claims dismissed at PH1 were totally without merit, the opposite is more probable.
9. Third the Tribunal must be satisfied that dismissing the claims on withdrawal "*would not be in the interests of justice*". In the circumstances described above, there is no reasonable basis on which I can be satisfied that dismissing the claims, following their withdrawal, would not be in the interests of justice. These claims are therefore dismissed on withdrawal.

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Employment Judge A James  
London Central Region

Dated: 15 February 2021

Sent to the parties on:  
16 February 2021

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For the Tribunals Office