



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4106572/2020

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Held in Glasgow on 8 January 2021

Employment Judge: P O'Donnell

10 Mrs K Thomson

Claimant
Represented by:
Mr Brown –
Solicitor

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Dalziel Limited

Respondent
Represented by:
Mr Philp –
Solicitor

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The claim of sex discrimination having been withdrawn at the hearing is hereby dismissed under Rule 52 of the Rules of Procedure.

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NOTE OF PRELIMINARY HEARING

1. The following is a Note of the Case Management Preliminary Hearing held by telephone on 8 January 2021.

Details of the claim and response

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2. The Claimant brings complaints of constructive unfair dismissal and sex discrimination.
3. At the outset of the hearing, Mr Brown withdrew the claim of sex discrimination. No objection was taken to that part of the claim being dismissed under Rule 52 and it is hereby dismissed.
4. In relation to the constructive unfair dismissal claim, the Respondent had set out at 2.7 of their Agenda further specification of the constructive unfair

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dismissal claim. Mr Brown, on behalf of the Claimant accepted that specification was required and indicated that he was willing to provide what was sought.

5 5. There was some discussion as to the request from the Respondent for the Claimant's holiday request. It was the Respondent's position that no such request had been made and they sought sight of it. Mr Brown, until he could take instructions, could not be sure that such a document was in the Claimant's possession.

10 6. In light of what had been said by both sides, the Tribunal made the following directions:-

a. Within **28 days** of the date of this hearing, the Claimant will provide the specification sought at 2.7 of the Respondent's Agenda, that is:-

- 15 i. Each and every act or omission relied upon which contributed to a material breach of contract?
- ii. When these took place?
- iii. Where or how these took place?
- iv. Whether there were any witnesses to each act relied upon? If so, who?
- 20 v. The final straw relied upon and why the Claimant considered this contributed to a material breach of contract?
- vi. Where each act/omission relied upon is referred to in the paper apart to the ET1?
- vii. Who the "Superior" was that the Claimant says she complained to in paragraph 3 of the paper apart?
- 25 viii. When, and how, the Claimant complained to her Superior?
- ix. What the Claimant complained to her Superior about?

- 5 b. Within **28 days** the Claimant will produce a copy of any written holiday request that was said to have been refused in January 2020. If no such document exists or it is not within the Claimant's possession then the Claimant will specify when the request was made, to whom it was made and how it was made.
- c. Within **28 days** of the Claimant providing the specification above, the Respondent will, if so advised, provide any further specification or amendment of their response to the claim.
7. The Tribunal noted that the Respondent's understanding of the basis of the claim is as set out at paragraph 1 of the draft list of issues provided with their
10 Agenda.
8. In relation to all the directions made above, the further specification to be provided by the parties should be sent to the Tribunal and copied to the each other.

15 **Jurisdictional issues**

9. The Respondent raises no jurisdictional issue.

Remedy

10. The Claimant will provide, to the Respondent, a preliminary Schedule of Loss within **28 days** of the date of this preliminary hearing. At the same time, the
20 Claimant will provide a preliminary Schedule of Mitigation setting out the steps he has taken to find a new job or otherwise minimise his losses.
11. A final version of both Schedules will be provided to the Respondent, and lodged with the Tribunal, **7 days** before the final hearing.

Documents

- 25 12. The Tribunal directed that there should be a joint bundle for the full hearing. The Respondent's agent agreed to prepare this.
13. The Tribunal made the following directions for the preparation of the joint bundle:-

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- a. Parties will exchange a list of the documents they wish to include in the bundle **no later than 26 March 2021**.
 - b. No later than **7 days** after that exchange the Respondent will identify any documents on the Claimant's list which they do not have in their possession.
 - c. No later than **7 days** after that the Claimant will provide to the Respondent any such documents identified.
 - d. The final version of the bundle will be prepared and available to each party (with 2 copies for the Tribunal) **no later than 28 days before the**
- 10 **final hearing.**

Judicial mediation

14. Parties indicated that this was not a case in which they were interested in Judicial Mediation.

Further preliminary hearing

- 15 15. Parties did not consider, and I agreed, that it would be possible to address matters such as length of hearing, whether it should be by way of CVP or in person etc until the specification.
16. I, therefore, considered that it would be appropriate to list a further case management Preliminary Hearing to be held by way of telephone at 10am on
- 20 10 March 2021.
17. The purpose of that hearing will be to list the final hearing and so parties should attend with their availability and that of any witnesses.

18. The hearing will discuss the identity of any witnesses, the nature of the hearing, the length of any hearing and any other matter relevant to the listing.

5 Employment Judge: Peter O'Donnell
Date of Judgment: 13th January 2021
Entered in Register: 23rd January 2021
Copied to Parties