



THE EMPLOYMENT TRIBUNALS

PUBLIC PRELIMINARY HEARING BY TELEPHONE

Claimant: Mr M Strozik

Respondent: Amazon UK Services Limited

Heard at: Newcastle upon Tyne CFCTC **On:** Wednesday 10th February 2021

Before: Employment Judge Johnson

Members:

Representation:

Claimant: In Person

Respondent: Mr Izenberg of Counsel

JUDGMENT

The claimant having failed to comply with the orders made by the employment tribunal on 20th November 2020, the claimant's complaints of unlawful discrimination on the grounds of sexual orientation were struck out on 18th December 2020.

REASONS

1. This matter came before me this morning by way of a public preliminary hearing by telephone, the purpose of which was to consider whether the claimant had complied with orders made by the employment tribunal on 20th November 2020 and, if not, whether the claimant's complaints of unlawful discrimination on the grounds of sexual orientation had been struck out. The claimant attended in person and the respondent was represented by Mr Izenberg of Counsel.
2. The claims of unlawful discrimination on the grounds of sexual orientation were set out in the claimant's claim form ET1, which was presented on 5th September 2020. On 15th October 2020 Employment Judge Aspden ordered the claimant to

provide further information about those allegations by 29th October 2020. The claimant did send some information to the tribunal and the respondent, but that information did not satisfy the requirements of Judge Aspden's orders.

3. A private preliminary hearing took place on Friday 20th November 2020 before Employment Judge Johnson, at which specific orders were made requiring the claimant to provide further information about his complaints of unlawful discrimination on the grounds of sexual orientation. The relevant order states as follows:

“By not later than 18th December 2020, the claimant must provide further information about his complaints of unlawful discrimination on the grounds of his sexual orientation. The further information must be sent to the respondent's solicitor and copied to the employment tribunal at the same time. The further information must deal with each individual incident, in numbered paragraphs in chronological order. In respect of each allegation of discrimination on the grounds of sexual orientation, the claimant must set out with clarity:-

- (i) exactly what was said or done or omitted to be said or done;
- (ii) by whom it was said or done or omitted to be said or done;
- (iii) when it was said or done or omitted to be said or done;
- (iv) where it was said or done or omitted to be said or done;
- (v) who else was present;
- (vi) if made or recorded in writing, a copy must be attached;
- (vii) which of the statutory provisions in the Equality Act 2010 (as set out in the appendix hereto) are said to be engaged by that particular act or omission.”

Unless the claimant provides this information by 18th December 2020 then his claims of unlawful discrimination on the grounds of sexual orientation shall be struck out without further judgment or order.

4. On 16th December 2020, the claimant sent a message to the employment tribunal timed at 19:40, in which he sets out 10 separate incidents upon which he sought to rely as providing the further information which he had been ordered to provide. The letter was not copied to the respondent.
5. No specific date is provided for any of the allegations set out in those 10 paragraphs. The claimant does not set out with clarity exactly what was said or done or omitted to be said or done, by whom, when, where or who else was present.
6. Of the 10 numbered paragraphs, the first 6 are said to have taken place whilst the claimant worked at the respondent's Coventry depot. Each of those allegations must therefore have taken place more than 3 months before the claimant entered into ACAS early conciliation. The next 2 allegations do not contain any information which could support an allegation of unlawful discrimination on the grounds of sexual orientation. The last 2 paragraphs refer to 2 incidents which could amount to harassment contrary to Section 26 of the Equality Act 2010.

However, the claimant does not set out all of the information required by the earlier order on 20th November 2020.

7. The claimant's explanation to the tribunal for failing to send that information to the respondent was that it was simply "a mistake," as a result of the claimant being on medication for depression at the time. It is clear from the employment tribunal file and the documents submitted by the respondent, that the claimant had been in correspondence with the respondent's solicitor for some time before he was required to comply with the terms of his order. The order clearly sets out that he was required to send the information to the respondent as well as the tribunal. The claimant failed to do so. The claimant was therefore in breach of the order.
8. The information which the claimant has provided does not contain what he was ordered to provide. The information is spartan and lacks meaningful detail of the kind required to enable the respondent to properly respond to those allegations. Without the proper identification of the claims, it is impossible for the respondent to fairly and reasonably prepare and submit its defence. It is also impossible to identify from that information exactly what the claims are and what would be the issues (the questions which the employment tribunal would have to decide).
9. I acknowledge that the claimant is of Polish nationality and that English is not his first language. I accept what he says in terms of being on medication for a depressive condition. However, I do not accept those as sufficient reasons to explain why the claimant did not send a copy of his documents to the respondent. I do not accept that as a sufficient reason why he was unable to set out the information which the tribunal had ordered him to provide. It was clear to me at the hearing on 20th November that the claimant fully understood what was required and expected of him.
10. The terms of the order made on 20th November were clear. Unless the claimant complied with the order the claims would be struck out without further judgment or order.
11. I am satisfied that the claimant failed to comply with the order and his claims of unlawful discrimination on the grounds of sexual orientation are therefore struck out.

AUTHORISED BY EMPLOYMENT JUDGE JOHNSON

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON 25 FEBRUARY 2021**

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