



EMPLOYMENT TRIBUNALS

Claimant: Ms A Tsehaye

Respondents: Autism at Kingwood
Sarah Baldock
Michelle Fairless
Rachell Watkins
Bob Horwood

Heard at: Reading (by CVP) **On:** 26 March 2021

Before: Employment Judge Gumbiti-Zimuto

Representation

Claimant: Not attending and not represented

Respondent: Miss Urquhart, counsel

JUDGMENT

The claim is struck out.

REASONS

1. The claim was originally presented on the 18 November 2018 and there have been two previous hearings at which various orders and directions were given. On 11 January 2019, the First Respondent provided an ET3 and Grounds of Resistance on behalf of all the Respondents then named.
2. On 18 September 2019 the Claimant's then representative, Howard Ogbonmwan, provided Further and Better Particulars of Claim.
3. On 19 September 2019, EJ Anstis conducted a Preliminary Hearing at which the following matters were decided, as set out in an Order dated 25 September 2019:
 - a. The correct Respondents to the claim were identified as the five Respondents named above;
 - b. EJ Anstis attempted to ascertain the claims and issues in the case, but noted:
 - i. The length, complexity and confusing legal references in the particulars of claim and the further and better particulars of

claim made it *“impossible... to discern from this what the claimant’s claims actually are and... whether they have any proper legal basis”*;

- ii. The claims identified by the Judge were those identified by Mr Ogbonmwan on behalf of the Claimant and were taken as made against the First Respondent;
 - c. EJ Anstis listed the claim for a further one-day Preliminary Hearing to consider case management and to consider any applications including application to strike out,;
 - d. EJ Anstis expressed a concern that *“if the case remains unready for a full hearing following the next preliminary hearing issues may arise as to whether the claim can ever properly be heard or should be struck out in its entirety...”*;
 - e. He ordered that within 14 days of the Order the Claimant must notify the Tribunal and the Respondents whether any of the claims of race discrimination are brought against individual Respondents and if so, to explain that;
 - f. He gave leave to the Respondents to amend their response.
4. The Respondents filed an Amended Grounds of Response, noting that the Claimant has failed to confirm whether any of the claims of race discrimination were brought against any of the individual Respondents.
 5. On 27 March 2020 the Respondents applied to strike out the Claimant’s claims, or alternatively for a deposit order.
 6. On 17 May 2020, EJ Anstis, having considered the Respondent’s application, wrote to the Claimant to say he was considering striking out the claim because:
 - a. The Claimant had not complied with the Tribunal Order dated 25 September 2019; and/or
 - b. The claim had not been actively pursued.
 7. On 03 June 2020, solicitors Barrett & Co wrote to the Tribunal to confirm that they were now instructed to represent the Claimant and that she wished to pursue her claims, but gave no further substantive response.
 8. On 22 June 2020 a further Preliminary Hearing was held by EJ Milner-Moore. Due to the pandemic, it was a private hearing, conducted by telephone. The Claimant appeared in person. In an Order dated 30 June 2020, EJ Milner-Moore:
 - a. Gave directions for today’s open Preliminary Hearing;
 - b. Set down directions for the final hearing in April 2022;
 - c. Noted that the Claimant had failed to comply with the Order of EJ Anstis and set out which race claims were brought against which

Respondent, and noted that the delay was not fully explained by the pandemic or the change of representative;

- d. Ordered that if the Claimant wishes to proceed against Respondents 2-5 she must set out which claims she brings, against whom, and on what basis, by 07 July 2020;
 - e. Gave further Directions to prepare the matter for a final hearing.
9. On 06 July 2020 the Claimant filed a 24-page 'Further Particulars of Claim' stating her intention to pursue claims against Respondents 1-5, and against two further respondents, notwithstanding the fact that the claims against the two respondents have been dismissed. No application to amend was received.
 10. On 20 July 2020 solicitors Barrett & Co wrote to the Tribunal to confirm that they were no longer instructed to represent the Claimant.
 11. On 26 July 2020 the Claimant provided her Schedule of Loss.
 12. The Respondent has heard nothing from the Claimant since 26 July 2020.
 13. The Respondent prepared a bundle for the hearing today and sent it to the Claimant yesterday (25 March 2021).
 14. In the light of the chronology set out above I have decided that the claim should be struck out. For the following reasons:
 15. While the unfair dismissal claim is "tolerably clear" I share EJ Anstis's concern that the other claims brought by the claimant are "not properly formulated or sustainable on the basis".
 16. The claimant was present at the hearing on the 22 June 2020 when the this hearing was listed and has failed to comply with the orders made by the Employment Judge Anstis and Employment Judge Milner-Moore to confirm whether she wishes to pursue claims against any of the individuals named as respondents and state the basis on which the claims are pursued.
 17. I have also come to the conclusion that the claims are not being actively pursued by the claimant.
 18. The hearing fixed for **25 April 2022 to 29 April 2022** will not take place.

26.3.21

Employment Judge Gumbiti-Zimuto

JUDGMENT SENT TO THE PARTIES ON
6/4/21

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J Moossavi
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FOR THE TRIBUNAL OFFICE