Case No: 2300345/2018V
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EMPLOYMENT TRIBUNALS

Claimant: Ms. Z Sadriyeva

Respondent: RPS Group Limited (1)
Ms K Hanna (2)

Heard at: **London South Croydon by CVP**

On: **7 December 2020**

Before: **Employment Judge Sage**

Representation
Claimant: In person
Respondent: Mr. Holloway of Counsel

REASONS
Requested by the Claimant

1. This matter was listed before me today to consider the Respondent's application for a strike out under rule 37(1) (b) which states that a case can be struck out where ".. the manner in which proceedings have been conducted by or on behalf of the Claimant has been scandalous unreasonable or vexatious" or under part (c) there has been non-compliance with any orders of the tribunal.

2. The Respondent produced a written skeleton argument dated the 4 December 2020 and sent to the Claimant at 20.27 that day. The skeleton referred to a number of cases which are referred to below.

3. This hearing was listed to consider a number of other applications including whether the tribunal has jurisdiction to hear the claims pursued by the Claimant and issues in relation to time points. It was felt to be proportionate to consider the Respondent's application to strike out first; followed by the Claimant's cross application to strike out the Respondent's response. The parties agreed to this approach.

Preliminary Matters.

4. Although the Claimant mentioned an application to the Tribunal to record this hearing, no such application was pursued and the Claimant confirmed that she was not recording the hearing.

5. The Claimant complained about the late production of the Respondent's skeleton. It was noted that the Claimant had been able to provide her comments on the skeleton argument yesterday 6 December. Taking into account any prejudice the Claimant may suffer as a result of the late production of the Respondent's skeleton argument, the Claimant was given an hour and a half to read this skeleton argument and to go through the bundle to prepare for the hearing and particularly to respond to the applications pursued by the Respondent. In any event, it was noted that none of the Respondent's applications where new or were a surprise to the Claimant (the strike out application first being pursued by the Respondent on the 17 May 2019 for failing to comply with the Tribunal's order dated the 13 May 2019).

Findings of Fact

Findings of fact in relation to the first application pursued by the Respondent

6. I will firstly deal with the findings of fact in relation to the Respondents application that the Claimant's conduct has been scandalous, unreasonable or vexatious.

7. The Respondent referred to a history of the Claimant making covert recordings in tribunal. The Claimant arrived late for a case management hearing on the 5 November 2018 before Employment Judge Martin and there was insufficient time to determine the issues, therefore the matter was listed for a further case management hearing on the 26 April 2019.
The Claimant later admitted that she had covertly recorded this hearing (in an email seen in the bundle at page 84).

8. On 26 April 2019 before Employment Judge Harrington, the Claimant again arrived late. The case management order made of this hearing reflected that again, the Claimant had begun covertly recorded the hearing and she had done so without first seeking permission of the Judge. When she was asked by Employment Judge Harrington whether she was recording the hearing, she accepted that she was doing so and when she was asked to stop, she refused. The Claimant refused to continue the hearing without recording it. The case management summary at page 115 paragraph 5 showed that the Claimant referred to the tribunal as illegal and she threatened to bring a claim against Employment Judge Harrington, while these discussions were ongoing. The recording continued and Judge Harrington stopped the hearing and refused to continue and warned the Claimant that she was considering striking out her case. After an adjournment, the Claimant then refused to leave the employment tribunal room and again referred to the tribunal as illegal.

9. Employment Judge Harrington ordered the Claimant by 4.00pm on the 13 May 2019 to write to the "…Tribunal, copying in the Respondent, confirming that she agrees to attend the next hearing at the Tribunal without recording that hearing. Upon receipt of the Claimant's correspondence, consideration

will then be given to whether the case can be listed for a further Preliminary Hearing or whether the claim should be struck out".

The Claimant's comments about Judges and staff in her written communications

10. The tribunal were taken to page 123-143, which was a document dated 2 May 2019 sent by the Claimant to the Tribunal stating that she was in dispute with the tribunal and she asked Employment Judge Harrington to recuse herself. In this document the Claimant made a number of lengthy applications and accusations. It was in this document that she asserted that she had recorded hearings in a different case. The Claimant went on to say at page 131 at paragraph 10 that the arrangement of the Employment Tribunal was illegal and accused Employment Judge Harrington of making a defamatory statement in her case management summary (at page 132). At page 133 paragraph 23, she accused Employment Judge Harrington of committing blackmail on behalf the Employment Tribunal.

11. The Claimant made a further application on 13 May 2019 for Employment Judge Harrington to be recused and referred to a conflict of interest (seen at pages 144-180). This was another lengthy document. The Tribunal was taken to a number of references in this document where the Claimant pursued what she described as a '*dispute with the employment tribunal*' where there had, in her view, been a conflict of interest. The Claimant claimed in this application considerable financial losses, including £1 million for libel and reputational damage (page 150). She also asked for a public apology, for a confidential settlement to be agreed and her legal costs to be paid (even though she was not represented). The Claimant also suggested that the Employment Tribunal's reputation, as the 'lowest type of court', was tarnished and this applied to the Employment Judges themselves. This was a shocking accusation to make against individual judges and against the Tribunal service without reference to any corroborating evidence whatsoever.

Evidence in relation to non-compliance with an order.

12. The Claimant in her email dated the 13 May 2019 sent at 4.19 (at pages 185-6 of the bundle) wrote as follows: '*She understands that she may need to comply with this order by 13.5.19. She would like to notify the Employment Tribunal that in such case she will not record the proceedings for the purposes of the and objects to the Case Management Order in all other respects only to comply with the deadline and not to overwrite her three applications above'.* The Claimant contended that this email complied with the order made by Employment Judge Harrington.

13. The Claimant went on to state in the same email that *'she does not agree with the case management orders at all and is requesting the employment tribunal to disregard this letter, which is in response to the Draconian order made by Judge Harrington, which was in breach of her human rights'*. The Claimant was clearly intending to continue to pursue her application to record and to assert her right to do so. This passage made it clear that she

had no intention of complying with the order, due to her view that it was unreasonable.

14. The question for the tribunal is whether or not the Claimant complied with the order made by Employment Judge Harrington. Firstly, it was noted that the response was sent at 4.19 clearly in breach of the order for the response to be provided by 4.00. However, that was a minor error.

15. Reading the Claimant's email as a whole, it did not unequivocally state that she would attend the next hearing without recording it, as she was ordered to do. Her explanation that she may need to comply with the order again suggested that she felt that compliance was optional. The Claimant wrote in the terms above for the purposes of appearing to comply with the order but failing to provide the assurance that was ordered. In her response she objected to the case management order. The response was also subject to an application to record the hearing, which appeared to be diametrically opposed to the requirements of the order made by Employment Judge Harrington which was to confirm that she would not record the next hearing. In this document the Claimant again repeated her application that Employment Judge Harrington be recused.

16. This email was written only for the purposes of providing a response by the due date but subject to her objection to the order and to a further application to record. The Claimant had therefore not complied with the order and continued to challenge the right of Employment Judge Harrington to refuse her application to record. The tribunal therefore concludes that the response did not comply with the order in two respects, it was presented outside the deadline and it did not provide an unequivocal undertaking not to record the next Tribunal hearing.

17. There was then a further preliminary hearing on 11 December 2019 before Employment Judge Morton to consider whether the Claimant's claim should be struck out for failure to comply with the order made by Employment Judge Harrington, in addition to other matters. In this hearing, the Claimant presented a further application for leave to record the proceedings. When the application was refused, the Claimant refused to participate any further (see page 686 of the bundle). Even if there was any doubt about whether the Claimant had complied with the order made by Employment Judge Harrington, the Claimant's conduct at this hearing corroborated that she had no intention of complying with the order in subsequent hearings despite the clear warning given by the Judge in the previous hearing. The tribunal saw that the Claimant presented at an appeal to the Employment Appeal Tribunal of Employment Judge Morton's decision and it was noted that the matter was sent back to Employment Judge Morton for a reconsideration. The application for reconsideration was refused and Employment Judge Morton confirmed the original decision.

18. Mean while the case was adjourned to a further hearing listed for the 11 June 2020 but that was postponed.

Further evidence in relation to the Claimant's comments about Judges and Tribunal staff

19. The Claimant in an email dated 12 December 2019, (during the process to appeal the decision to refuse her application to record) referred to Employment Judge Morton describing her as '*either racist or corrupt as discussed above, and she undermined my applications and had not decided are very easy application concerning permission to record which is very straightforward to decide positively*.' (page 671).

20. There was then a further document in the bundle at page 677 describing the hearing before Employment Judge Morton as being '*often either in error or in a deliberate error to side with the Respondent*.' This was a clear but completely unfounded accusation of bias. A further email from the Claimant addressed to Employment Judge Morton dated 21 February 2020 at page 1047 of the bundle included the following words '*cease and desist lying and consider the impact on my health of this whole situation of being captive to the Respondent for such a long time and with the most negative impact on my reputation*'. There was a further unsubstantiated accusation against Employment Judge Morton made on 17 June 2020 seen in the bundle at page 1734 where she accused Employment Judge Morton of committing a deception and participation in a fraud by the defendant.

21. The Claimant's accusations of professional misconduct were not limited to those hearing her case, for example, she requested that '*Employment Judge Freer brings Judge Morton to order for lying in her order and playing into the hands of the defendant'.*

22. The Claimant also expressed a low opinion of the Employment Appeal Tribunal where she asked the His Honour Judge Barklem to recuse himself and of committing a '*totally absurd and unacceptable in breach of my rights. Completely unjust, unfair and inequitable'*. The tribunal saw further disparagement of the EAT in an email from the Claimant dated 10 June 2020 at page 1552, where she provided an opinion that it was possible that the Respondent '*paid to influence the Employment Appeal Tribunal proceedings. When they pay: it can be through a harassment company so they mount all sorts of harassment and obstruction of activities*'. She also ended this email by asking the Employment Appeal Tribunal to '*please ensure that unbiased judge reconsiders*'. The tribunal also saw a further email from the Claimant to the Employment Appeal Tribunal dated 25 August 2020, where she referred to the decision made in respect of her application to record proceedings as being absurd and in this document she went on to suggest that the decision should be used in her bathroom. She again referred to Employment Judge Morton as a liar in this communication.

23. The Claimant's scathing attacks on the judiciary was not only limited to Employment Judges, for example she accused the employment tribunal staff and Employment Judge Freer (before becoming Regional Employment Judge) of defaming her, that ET staff had taken bribes or were maybe '*suffering from mental health problems'*. These deeply offensive accusations were contained in an email dated the 27 August 2020 (at page 1823 of the bundle).

The Claimant's written comments about the Respondent and their staff.

24. The Tribunal went on to consider the Claimant's communications with the Respondent. The Tribunal was taken to an email dated 17 March 2020 at page 1063 which was sent to one of the Respondent's employees; this was sent in an attempt to encourage the Respondent to give her a payment to settle the case. In her email she asked the Respondent to "*stop committing crimes*" and for the Respondent to stop telling lies. In this email she asked the Respondent to pay her £500,000. Although the Claimant objected to reference being made to this document because in her view this communication was 'without prejudice', there was no evidence that this was the case. It was not sent in an attempt to settle the claims but a clear attempt to demand money from the Respondent. It was therefore not without prejudice.

25. The tribunal was then referred to page 1065, which was again dated 17 March 2020 but sent to Bevan Brittan, a personal injury law firm, an employee of the Respondent and the police. She attached to this email photographs of her sputum and another photograph. She asked in this email for an interim payment of £10,000.

26. The Tribunal were then taken to page 1170, which was an email dated 20 May 2020 again sent to the Respondent asking them to '*save my life*.' In this email she asked them to pay her because in her opinion, '*you cannot win anyway…*'. At the end of this email she stated '*you will not get away with this, you are criminals.'*

27. Then on 23 May 2020 at page 1230-1, the Claimant sent an email to a wide group of employees employed by the Respondent company. In this email she referred to being '*enslaved and led to bodily harm by way of protracting court proceedings*…' and then went on to refer to fraud, suppression of documents, crimes and medical torture. She asked the Respondent to pay her a first instalment of £50,000 to her bank account so she could get 'real' doctors to treat her. She provided her bank account details in order for the Respondent to make the payment.

28. This conduct continued and the tribunal saw another email dated 23 May 2020 again addressed to a large number of employees at the Respondent company at page 1233. This email stated that they would not get away with it and informed them that she had drafted a committal application to the High Court. She then stated that "*I have v forwarded my documents to barristers with details of my family in Russian Federation-you will all get something for this if something happens vto (sic) to me*". The tribunal noted this was a veiled threat that physical harm could come to those employed by the Respondent company if they did not give in to her demands for money.

29. The tribunal was then taken to an email dated 31 May 2020 at page 1311 to the Respondent's solicitors together with a number of people employed at the Respondent company threatening to apply for a wasted costs order. The Claimant asked for the money to be paid voluntarily. She also again repeated the accusation against the Respondent that they were committing a crime. She then went on to say '*how dare you be torturing me, participating in the torture, and how fate you sit there in the public eye as*

these are open proceedings and act this way, trying to slowly or quickly kill me.'

30. The tribunal were taken to the examples where the Claimant made further demands against the Respondent for money, those were dated the 1 June 2020 at pages 1344-5, 9 June 2020 (page 1530), 10 June 2020 (page 1555) and 17 June 2020 (page 1705). In the last communication the Claimant also stated that the Respondent's law firm had participated in torture and had committed fraud.

The Claimant's response to the Respondent's application to strike out her claims

Those submissions were oral and were as follows:

31. On the 26 April the Claimant said she was not refusing but was arguing for her rights, this has been a misinterpretation of her actions. The hearing was adjourned and what was omitted from the skeleton argument was that Employment Judge Harrington wanted to read the Contempt of Court Act and the European Convention of Human Rights.

32. The Claimant said that her conduct was impeccable and she did not vilify anybody. She added that "What is said in the skeleton argument is said to impress you".

33. The Claimant claimed that the letter was in compliance with the order and sent at 4.19, and added that she did not have the resources. She stated that the letter was not a refusal to record at all, it contained a request without which her rights were affected. The Claimant then added *"This is why I wrote to say I would comply and stop recording. It is a typo and must be considered as such. Page 185 the question is taken out of context, it is not to overrule the right to make the applications above. I would not know what it means. I would not know what is correct, I was concerned about how my applications were being processed and asked for help. I sent the letter at 4.19 which was a little bit late but I lacked resources. I would say that the skeleton argument was sent very late and was out of time".*

34. The Claimant then stated that *"I complained and indicated how much compensation this would create. I am an economist and am penniless because of this. I wrote everything in a realistic way".*

35. The Claimant then turned to page 150 of the bundle in relation to the reference to a conflict of interest and she stated that once again she noted that Counsel for the Respondent made reference to this and his last point was about their own reputation. The Claimant stated that she did not write this in a disparaging manner. She went on to add that in 2018 she was writing many of the documents on her smart phone and for that reason there may be typographical errors.

36. The Claimant denied that her recusal application was scandalous or vexatious, she stated that she had the right to do this. She stated that she did not understand why her application was not considered. She felt that the Tribunal "*works in a strange way*" and she had not received

communications on this. She stated "*My question is where this application stands".*

37. The Claimant again stated that she complied with the order and further preliminary hearings were listed. She stated that there was "nothing further she could say". She said her ET claim form was accepted and she complied with the order of Employment Judge Harrington. She then added "it is written in good enough English. It is written that I needed legal help, the Employment Tribunal provided it – the emails and further preliminary hearings, nothing here that is unusual or vexatious. The Employment Tribunal was not of that opinion".

38. The Claimant then went on to refer to Employment Judge Morton and said that she was "*willing to consider that my request to record should go to appea*l". The Claimant denied that these were examples of vilification. The Claimant said "I conducted myself well".

39. The Claimant stated that some of the communications referred to by the Respondent were without prejudice because they made offers of money. She stated that her communications to them were not considered to be privileged. The Claimant objected to some of the communications being in the bundle and to them being read. She stated that "*this does not relate to the proceedings, it is privileged communications with the defendant. It doesn't affect the defendant in the way Mr Holloway says it was. I was in a desperate state. I was bitten by a flea. My health deteriorated. I have a slight disability. I became ill with an infection on the 26 June 2019. I tried to push for an interim payment because one Judge gave me a positive response in December 2019 or January 2020. My health deteriorated from April 2019, I had a high temperature. I was becoming desperate, my lymph nodes, this is confirmed by two scans in Russia. I added this to the bundle at pages 29-30 and page 32. This is what I had and I had treatment*". The Claimant provided further details of her medical condition including having a high temperature and swollen lymph nodes. The Claimant described being ambushed by her illness.

40. The Claimant went on to state that her conduct had always been impeccable and it was a "*huge exaggeration and a lie by the Respondent's counsel*" to suggest otherwise.

41. The Claimant then went on to deal with the Respondent's application which she described as "disconcerting and surprising".

42. [The Claimant went through her claims and issues in relation to disclosure but as this was not relevant to the first application those submissions will not be included in this decision].

43. The Claimant then went on to refer to her application to the Employment Appeal Tribunal. She stated that she was successful at the beginning but then Employment Judge Morton reconsidered the decision and came to the same conclusion which she said "*was mean of her"*. The Claimant suggested that the reason the reconsideration was unsuccessful was that Employment Judge Morton had "*made a mistake – she wrote and decided on a non-existent application for part 18 disclosure – for potential fraud of a*

draft bundle which I made a mistake about. This application was never made. Employment Judge Morton did not make this application, it was about a yahoo mailbox. She refused to permit the recording of the proceedings despite the EAT asking her to reconsider".

44. The Claimant denied that her communications with the EAT could be an example of vexatious conduct because she had a right to appeal.

45. The Claimant went on to state that "*recording is easy to permit*" and it was within her right to request it. She stated that she was surprised that the Tribunal took the stance that it did and she was shocked by this.

46. The Claimant then made an application to strike out the Respondent's ET3 because, in her view, there were numerous false statements in it (page 291) and because it didn't have a statement of truth. She stated that the document was "*full of lies and cannot be used as a defence*". The Claimant also made reference to a letter in the bundle at page 293 which she stated was an offensive letter containing a discriminatory comment. The Claimant then went on to refer to a number of documents that she said were untrue and lies and said that the Respondent was using the ET3 to "malign me and to invent things that were not true". The Claimant then went on to state that a "*bogus defence is no defence*".

The Respondent's oral response

47. The Respondent accepted that there were a number of factual disputes which would be before the Tribunal hearing the case, but would not be dealt with now. The Claimant has placed considerable focus on health but there is no medical evidence to suggest that it impacted on the way the Claimant conducted herself. You have seen what Employment Judges Morton and Harrington have to say. The medical documents referred to in 2020 made no reference to the medical condition impacting on the manner in which the Claimant conducted herself.

48. Respondent's counsel then went on to deal with the issue raised about whether documents were without prejudice and he stated that the Claimant's communications were not a genuine attempt to settle therefore they are not without prejudice.

Cases referred to by the Respondent

Bolch v Chipman IRLR 140 EAT

Bennet v London Borough of Southwark [2002] EWCA Civ 223

The Law

Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 Schedule 1 rule 37. The two grounds relied upon by the Respondent are as follows:

(b) that the manner in which proceedings have been conducted by or on behalf of the Claimant….has been scandalous, unreasonable, or vexatious;

(c) for non-compliance with any of these Rules or with an order of the Tribunal

Decision

49. It is for me to consider whether this claim should be struck out. It is on two grounds, whether the Claimant failed to comply with the order of EJ Harrington and secondly whether the Claimant's conduct was "scandalous..". In this decision I will deal with whether the Claimant's conduct was scandalous first.

50. The Claimant's conduct was certainly unreasonable and I have to conclude on the clear evidence before me it was scandalous. I have been reminded that I am not to take the natural and ordinary meaning of scandalous but to take the meaning referred to in the Bennett case (referred to above) that it is the misuse of legal process to vilify others or giving gratuitous insult to the court in the course of the process. The Claimant's conduct showed a sustained and unmeritorious attack on individuals seeking to ensure a fair hearing from the perspective of both parties in the course of this litigation. The unpleasant and often offensive accusations made against individual judges and court staff show an attempt to vilify those the Claimant does not agree with and using the legal proceedings to attempt to gain an advantage against the Respondent with a view to seeking to secure a payment from them.

51. The Claimant made repeated attempts to record proceedings (sometimes covertly). When she has pursued applications to record which were subsequently refused, she embarked on a campaign of vilification of those who refused to accede to her requests. This was seen in her conduct towards Employment Judge Harrington, Morton and others in the Employment Tribunal and in the Employment Appeal Tribunal. She embarked on a campaign of considerable magnitude making baseless accusations of fraud and dishonesty of lying and taking bribes. These accusations were completely unsubstantiated. They were pursued in an attempt to vilify those seeking to ensure that both parties in this case could be assured of attending a fair hearing.

52. I have also considered the conduct of the Claimant towards the Respondent, its employees and legal representatives and have found that this conduct was also scandalous. The Claimant's communication with the Respondent and its employees were unpleasant and at times threatening, the Claimant had no reason to communicate with the Respondent's staff and to do so in the terms referred to above was troubling. If the staff were to be called as witnesses they may feel reluctant to do so thus undermining the prospect of a fair hearing. I have referred to some of the instances above which will not be repeated here. Although the Claimant referred to having a physical health problem in her oral submissions, there was nothing to suggest that this caused her to act in this way or that it adversely impacted her judgment or communications with others.

53. Although judges are meant to have broad shoulders, especially where there is a litigant in person, however that has limits. Inappropriate conduct of a litigant in person can be forgiven if it is due to a misunderstanding of processes and procedures. However, in this case the Claimant has been informed numerous times that she is not allowed to record Tribunal proceedings, despite being told this she has continued to pursue what she believes to be her right. However she has pursued this matter by making baseless accusations against Judges with whom she disagrees.

54. The Claimant still in this hearing in her oral submissions continued to pursue her argument that it was her right to make an application to record, even though this matter had been decided by two Judges in Tribunal and in the EAT, all coming to the same conclusion, that she is not entitled to record the proceedings. It is concerning that this case has not progressed since the first hearing on the 5 November 2018. Despite the parties attending three hearings in the Tribunal, no orders have been made and the matter has not been listed for a hearing due to the conduct of the Claimant. It was also noted that before this hearing there was a bundle of considerable size, the contents of which focused mainly on the oppressive written communications generated by the Claimant in this case. It was evident from the communications that the Claimant does not intend to comply with orders with which she does not agree as can be seen from the findings above. It is concluded therefore that the Claimant's conduct in the case is scandalous and strike out is the only appropriate sanction.

55. It has been further found that the Claimant failed to comply with the orders made in her case and I refer to the findings made above at paragraphs 12-17. It was apparent that in all the communications and even in today's hearing, the Claimant does not accept the decision made by two Employment Judges that she is not allowed to record the hearing. Consideration was given to whether the Claimant may not have worded the email said to be in compliance with the order as well as she could have done as she referred to typographical errors in her oral submissions, but this was discounted as her conduct in the subsequent hearing on the 11 December 2019 showed that the Claimant had no intention of complying with the order not to record this hearing. The Claimant's conduct throughout has shown a flagrant disregard for the orders made by Employment Judges.

56. It is concluded on the evidence that it is appropriate to strike out this case due to the Claimant's failure to comply with the order made by Employment Judge Harrington. Taking the Claimant's oral submissions into account, it seems that she continues to pursue her application to record proceedings despite the decision being delivered to by two Employment Judges. There is a real concern that the Claimant would continue to fail to comply with Tribunal orders where she disagreed with it or where she perceived that it was to her disadvantage. The Claimant's attitude exhibited above calls into question whether there could be a fair hearing on this matter in future. It is for this reason that there can be no alternative but to strike out this case

57. This claim is struck out.

58. In the light of my decision there is no need to go on to consider the other applications pursued by the Claimant and the Respondent.

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Employment Judge **Sage**

Date: 27 April 2021