EMPLOYMENT TRIBUNALS

Claimant **Respondent**

v

Mr A Drinkov Lidl Great Britain Limited

RECORD OF A PRELIMINARY HEARING

Heard at Watford **On**: 19 and 20 May 2021

Before: Employment Judge Manley
Mr Kaltz
Ms Brosnan

Appearances
For the Claimant: In person
For the Respondent: Ms Gill Williams, Solicitor

RESERVED JUDGMENT

1. The tribunal has no jurisdiction to hear the claims for disability and/or race discrimination as they were presented out of time and it is not just and equitable to extend time to allow them to be heard.

2. The claim for detriment (dismissal) because the claimant had made protected disclosures has no reasonable prospect of success and is struck out.

3. The claimant's claim for unlawful deduction of wages has no reasonable prospect of success and is struck out.

4. Even if any of the claimant's claims could have proceeded, the manner in which the proceedings have been conducted by the claimant has been scandalous, unreasonable and vexatious and the tribunal finds it is no longer possible to have a fair hearing in respect of the claim. The claimant's claims are all dismissed.

Introduction and issues

5. The claim having been presented in December 2017, there have been some delays in this matter. At a preliminary hearing on 11 June 2018, the claimant's claim for unfair dismissal was dismissed because he did not have

two years' service. His other claims that there was a dismissal because he had made protected disclosures was allowed to proceed, as were other claims which were identified as claims for disability and/or race discrimination and unpaid wages. The issues were identified as follows:-

Public interest disclosure dismissal

1) *Did the claimant make the following qualifying disclosures (with paragraph numbers from pages 29 to 32 of the claimant's bundle):*
   - i) *On 26 November 2016 (para 8) – verbal to Robert Sutton re unlocked doors at night;*
   - ii) *On 17 December 2016 (para 11) – 999 phone call to police re purported theft and inaction;*
   - iii) *On 17 December 2016 (para 12) – verbal to Robert Sutton re contaminated food outside;*
   - iv) *On 22 December 2016 (para 13) – in writing to pay roll re pay concerns;*
   - v) *On 21 February 2017 (para 15) – repeat of pay roll concerns;*
   - vi) *On 6 March 2017 (para 16) – verbal to Robert Sutton re food contamination;*
   - vii) *On 14 or 18 March 2017 (para 18) – verbal as in (iii) above;*
   - viii) *On 14 or 18 March 2017 (para 19) – verbal about "criminal offer" to assistant store manager;*
   - ix) *On 4 April 2017 (para 20) – phone conversation with pay roll hotline;*
   - x) *On 13 April 2017 (paras 22 and 23) – various about numerous matters raised before;*
   - xi) *On 8 May 2017 (paras 25 to 31) – various written to pay roll and others about numerous matters raised before;*
   - xii) *Between 1 May and 12 May 2017 (para 33) – verbal re bread section to 6 people including Robert Sutton;*
   - xiii) *On 12 May 2017 (para 34) – in writing re rota change;*
   - xiv) *On 25 May 2017 (para 39) – in meetings with KDL, SW and JS re problems with pay roll.*
2) *In particular, did he disclose information which, in his reasonable belief, was made in the public interest and tends to show one of the matters set out in s43B ERA 1996?*
3) *If so, was the reason or the principal reason for the dismissal that the claimant made a protected disclosure? The respondent's case is that the reason for the claimant's dismissal was gross misconduct.*

Disability and/or race discrimination

4) *Did the deputy manager BK say to the claimant on or around 12 February 2017: - "Are you disable? Could you read English?"*

5) *If so, was that less favourable treatment because of disability or race?*

Unpaid wages

6) *Did the claimant receive all sums that were due to him over the course of his employment? The claimant says that it is impossible for him to calculate what he believes he is due because the pay systems are so difficult to comprehend.*

6. A further preliminary hearing was listed in November 2018 to consider whether the discrimination claims had been brought within the applicable time limit, and if not, whether it was just and equitable to extend time and whether any of the claims had no reasonable or little reasonable prospect of success. In the event, that matter did not proceed because there was an application to postpone because of the claimant's ill-health. There were then some delays while medical evidence was produced with respect to the claimant's fitness to proceed. The claimant has been diagnosed with a mental health condition in the past and the tribunal needed some assurance that he was fit to proceed. Later, medical evidence was received to that effect.

7. Then there were some further difficulties because of the pandemic. There was a telephone case management hearing on 20 April 2020 and a further one on 20 August 2020. It was hoped that this matter could be determined in January 2021 but, given that it had been decided that an in-person hearing was appropriate, it still could not proceed on that date because of the pandemic. In the event, this was the open preliminary hearing for us to determine those matters as soon as was possible to list this in-person hearing. The claimant requested a full tribunal and it was agreed that would be appropriate in this case.

8. In the meantime, the respondent had applied for this hearing to also consider its application to strike-out the claimant's claims under Rule 37, and that matter was added to the matters to be considered.

9. The issues were taken at this hearing in four sections. The first was to hear argument about the time limit point for the discrimination claim, the second to consider prospects of success for the public interest disclosure claim, thirdly to decide prospects of success for the unpaid wages claim and finally to consider whether the matter should be struck-out because of the claimant's conduct and the prospect that a fair trial might not be possible.

10. There have been many questions raised by the claimant over the course of this case about recording various hearings (and about many other case management decisions). It was determined that there being no equipment for there to be such recording, this hearing would proceed in the usual manner with those present taking what notes they could. The claimant made an early application for audio and/or video recording but was informed

that that was not possible and that notes would be taken, although they would not be verbatim notes.

The hearing

11. This was an open preliminary hearing which was, of course, to be held in public. Because of the requirement for the tribunal to have in place social distancing measures, each of the parties was permitted to have two people accompanying them. By the afternoon, there was only one person with the claimant so there was room for another attendee who was with the respondent. A number of questions were asked about this and it was explained to the claimant. The claimant repeated his request for a recording of the hearing which was refused.

12. He then made an application for the judge to recuse herself. He asked, in the alternative, that there should be a postponement. He said there were serious grounds for his belief that the judge was "*dishonest, unprofessional and was here to rescue the respondent*". He also referred to the interests of MI5 in these proceedings which was a matter which was repeated throughout the day.

13. The claimant indicated that he wanted the panel to remain in place and felt that the judge could be on the panel, but not "leading" the tribunal. Briefly, the respondent opposed such an application; saying that the judge was the person who had most of the conduct of this case over some years. In the respondent's view the judge's conduct had been *"thoughtful and helpful*". It was said there was no evidence of corruption or involvement of MI5 or the Government. There being no grounds for recusal, the judge refused the claimant's application. Although he repeated that application on a number of occasions, the answer was the same. The application is without any foundation and rests on the claimant's belief that the judge is, in some unevidenced way, linked to the respondent and various arms of Government including MI5. The application to postpone was also refused, it have taken many years for us to be able to hold the preliminary hearing.

14. We had a bundle of documents from the respondent and they had also copied the claimant's substantial bundle of documents which had two sections running to approximately 600 pages. Many of these documents were court documents (for this and other cases in different courts and tribunals) and documents which had been cut and pasted and amended by the claimant. They included copies of many extensive applications he has made in these proceedings and, it seems, perhaps in other proceedings which we will come to. The respondent had prepared a short skeleton argument and when the claimant was asked whether he had that document, some time was spent trying to find a document that he referred to which, in the end, seemed to be the respondent's skeleton argument with some amendments about page numbers which he had added to the bottom.

15. The judge then indicated how the hearing would proceed, stating that we would first hear from the respondent and the claimant would then have a

chance to respond, and that we would take matters in sections as set out above.

16. At that point, the claimant appeared to raise some questions about there being more than one claim form. This did not appear to be a matter which had been raised before so we tried to understand what was being said. Suffice it to say, at this point, that our research showed that the claimant did present a claim on 23 November 2017 which had case number 3329046/2017. That was rejected because there was no ACAS certificate. The claim presented on 27 December 2017, under the above case number was accepted and that was the claim which the respondent responded to. The tribunal does not understand what point, if any, the claimant was making about that.

17. We will therefore take matters in the order in which they were approached at the hearing giving our answer after we have set out, as best as we are able, the competing arguments of the claimant and the respondent.

Time limits for the discrimination case

18. In the list of issues, this allegation related to a comment said to have been made by a supervisor BK who is deceased and died shortly after the incident. In the list of issues, it was said to have taken place on 12 February 2017, although the respondent believes, at some point, that the claimant has suggested it was 4 February 2017. In any event, whenever the comment was made, if indeed it was, the claimant would have needed to approach ACAS before 11 May 2017. In fact, the claimant did not start the ACAS early conciliation process until 28 October 2017. That claim is therefore out of time. The respondent went on to remind the tribunal that the burden of proof is on the claimant to demonstrate that it would be just and equitable to extend time and he has given no information about that. Furthermore, the respondent says that a fair trial would not be possible because the person who made alleged remark is deceased and there is no context for the remark. The respondent says it faces real prejudice because it would be unable to defend such a claim. It says the claim has no reasonable prospects of success in any event.

19. The claimant responded to that, stating that he understood the respondent's case on the issue. He spoke at some length and did not always seem to touch on the point that we were considering. The claimant repeated some matters about BK's unfortunate death which are irrelevant to these proceedings. He repeated what he said about the second claim form and alleged some continuous discrimination from one of his managers beginning in November 2016. He also referred to his discussions with the respondent about his pay. He said that his claim could not be out of time, because he had complained during the time of his employment. The claimant did not agree that the incident took place more than three months before he went to ACAS. He again referred to MI5's involvement. When the judge asked him whether he wished us to consider a just and equitable extension, the claimant referred to meetings in February and March 2017 but accepted that he did go to ACAS in October and complained earlier to the respondent.

Tribunal's findings on the time limit point

20. There is no doubt that this claim was made out of time. It was over five months before the claimant went to ACAS and he has failed to give an adequate explanation for that delay. The claimant gave no reasons for us to consider a just and equitable extension of time and the tribunal cannot detect one. The tribunal has no jurisdiction to hear that claim and it is dismissed.

Public interest disclosure claim

21. The respondent submitted that the public interest disclosure claim has no reasonable prospect of success. It says that there were no protected disclosures and, even if there were, they were not the reason for dismissal. There are 14 alleged disclosures in the list of issues (paragraph 5 above). The respondent submits that the alleged protected disclosures did not meet the definition in the Employment Rights Act. First, it is said that five of the disclosures were about pay issues which relate to the claimant's pay which, the respondent submits, is not in the public interest. Other matters ranged from concerns about unlocked doors, alleged theft, contaminated food and mice in the bread section and a change to the claimant's rota. They range in time from 26 November 2016, shortly after the claimant began his employment to 25 May 2017 and dismissal did not take place until early October 2017.

22. Secondly, the respondent says, even if there were public interest disclosures, the claimant never suggested that his dismissal had anything to do with them until late in these proceedings. The respondent asked us to consider the detailed investigation that the respondent undertook into the allegations against the claimant. In short, the allegation was that there was "*gross misconduct in relation to an altercation on 23 May 2017 and 30 May 2017 between yourself and a colleague whereby it is alleged you behaved in an aggressive, threatening, intimidating manner (including shouting, swearing and physical contact) towards a colleague"*. There were extensive investigation meetings with nine individuals and a number of statements were provided. The claimant was dismissed after a long disciplinary hearing and a detailed letter of outcome was sent to him. He appealed and that appeal was rejected. We were particularly asked to consider the claimant's appeal against dismissal at page 80 of the bundle and page 81 which reads:

> *"Actually, I was dismissed for:*
>
> *1. Keeping the saw in the welfare area with acknowledgement of two assistant managers about it six months before 30 May 2017 – this is very strong punishment – where the written statements from assistant managers were not taken.*
>
> *2. Using the word "bastardinio" in the situation when it cannot be offensive and clear in a friendly way. But the background of the*

allegations of AR were extremely different. As it was established that the word busterard had no place, the rest allegations (I said them what to do at 22:15 when I just arrived at midnight and did what Andrew left to me) were also fake. The only single point company had against me – my own statement with excuse about it and demands to instigate the previous fake allegations which were rised against me".

23. The respondent's submitted that the dismissal had no connection whatsoever with any disclosures, even if there were some and the claimant did not suggest any such connection. The respondent reminded the tribunal that the burden of proof is on the claimant to show that there were disclosures and that they were linked to the dismissal. Finally, the respondent asked the tribunal to consider that even though that might be the claimant's perception, that cannot be relied upon as his perception about conspiracy theories during the course of these proceedings which extend to the respondent's solicitors, the judiciary, clerks and other courts, show that his perception is totally unreasonable.

24. The claimant responded to the respondent's submissions at some length. He spoke for almost an hour and did not always touch on the matters before the tribunal. On a number of occasions, the judge tried to bring the claimant back to the point under consideration. In any event, doing the best we can, in summary, the claimant repeated some detail about the alleged public interest disclosures, including the reasons that he raised some of these matters. In particular, he was very concerned about pay issues because he believes that it extends to more employees than just himself, alleging, on a number of occasions, that there has been a £36 million per year scam by the respondent involving theft from its employees. He also submitted that this was a matter which happened at other places he had worked, including Marks and Spencer where he apparently has brought a previous claim. We understood the claimant to be saying that he believed the matters that he raised were in the public interest and that some of them related to safety, particularly in relation to unlocked doors and contaminated food.

25. When the judge asked him to consider the question of the dismissal and whether it was connected to any such disclosures, the claimant said that he believed matters were fabricated against him. He said that every single witness had to be challenged and that procedures had not been followed. He said there was no CCTV to prove any wrong-doing. He said he had suffered abuse from managers where he was calm and polite. In summary, he said that the respondent is lying and that his dismissal was unfair. He said that part of the reason for his dismissal was to delete records about pay and to cover up the £36 million scam. He said that he had been forced to give notice because of difficulties with pay. He repeated some allegations about being forced to work for long hours and also that in broad terms, he did make public interest disclosures which were in the public interest. When asked again to explain why he believed there was a connection between his dismissal and any disclosures, he said that it was "*very simple*" in that the respondent was aware he was

suing Marks and Spencer and that they knew what would happen, they could not "*play with me*". He raised a number of issues about his pay and his payslips and his attempts to clarify to meetings with the respondent. He finished by asking for written reasons, although the judge explained that matters were not yet concluded.

Tribunal findings on public interest disclosure dismissal allegation

26. First, we considered the question of whether there was no reasonable prospect of the claimant showing that he raised public interest disclosures. We have taken the view that it is not possible for us to determine that at this stage. Although some of the matters raised seem to relate to the claimant himself rather than being matters which, in his reasonable belief were in the public interest, we cannot say that for all matters which he says he raised. If this matter was to proceed, the tribunal would have to consider each alleged protected disclosure to see whether it meets the tests set out in the Employment Rights Act 1996. That is, whether there was disclosure of information which tends to show a breach of a legal obligation and whether it was in the reasonable belief of the claimant that it was in the public interest. This is not something that we are able to do at this stage so we cannot say that the claimant has no reasonable prospect of showing at least one of those matters amounting to a public interest disclosure.

27. We therefore turn to the question of whether there is no reasonable prospect of the claimant showing that his dismissal was connected to any such alleged protected disclosure. Here the matter is much clearer. The tribunal has no doubt, on clear contemporaneous evidence, that the respondent's actions in investigating and dismissing the claimant, were entirely related to matters completely unconnected to any such alleged disclosures. The respondent received reports of alleged aggressive behaviour of the claimant from a co-worker. It investigated those matters thoroughly and there was virtually no mention of anything outside those matters throughout extensive notes and interviews including those with the claimant.

28. Although the matter of the claimant's pay was very occasionally touched upon briefly in the discussions, the claimant has no prospect of showing it played any no part in the decision to dismiss him. That decision was taken by the area manager to whom those disclosures had not been made. Indeed, on the claimant's own appeal, he makes no suggestion of any such connection. Considerable evidence was gained and the tribunal has no difficulty in finding that the claimant has no reasonable prospect of succeeding in showing a tribunal that there was any connection whatsoever between any protected disclosures he might be able to show and the decision to dismiss. That claim is struck out.

Unpaid wages

29. The respondent's submissions on this are that the claimant's claims have been unspecified and he is owed no further monies. The respondent has

responded a number of times to the claimant's requests about his pay, both during his employment and subsequently. It is not clear what the basis of the claimant's claim is with respect to this matter. The respondent took us to a number of letters and explanations for the way in which the pay statements were produced at pages 71 to 73, 82 to 83 and 99(q) to 99(u) in the bundle. Although the respondent accepts that the claimant has, from time to time, set out some sums which he suggests are due, it is not clear how he has come to those conclusions. The respondent reminds the tribunal that the burden of proof is on the claimant to show that there has been such an unlawful deduction. The claimant's case seems to relate back to his belief that there is a £36 million scam by the respondent upon its workers.

30. When the claimant responded to this, he talked about the months that he had been there and the attempts he had made to find out how his pay had been calculated. The claimant appeared to say that he could not calculate to the last penny and no one had ever been able to explain how his pay was calculated. He believed this was a "*different scam*". He said that a number of records were deliberately destroyed but asked us to look at page 151 of the bundle (the claimant's second bundle) where there appear to be some calculations. The tribunal could not understand that document. It is full of a great number of calculations which are impossible to follow. For example, he writes:

> *"my under payment in October to September was (-1273.15) because in October it was (- 842.05). The important note: I declare the approx. amount of the deduction as (£2,333 in the money claim at February 2018)."*

31. He then goes on to give some other figures with respect to deductions in May, August and October and refers to "*night shift leader allowance (£880). I am fully entitled for it: I became the eldest (time of service night ee just after three month of service ….)".* Even that short example indicates that it is impossible to understand, not least for the simple reason that, out of many matters alleged, the claimant was not the night shift leader.

<u>The tribunal findings on the unpaid wages claim</u>

32. The claimant has no reasonable prospects of succeeding in this matter. The tribunal appreciates that the respondent's pay statements are relatively confusing. Part of that is because there is an hourly rate as well as a night premium and a London allowance and that deductions at several points. However, there have been detailed explanations for the pay statements set out in various formats in an attempt to explain it to the claimant. On the face of it, there is no evidence that the claimant has suffered any unlawful deduction of wages and he has not been able to indicate where one is, even by this stage of the proceedings. There is no reasonable prospect of succeeding in that claim and it is struck out.

Rule 37 – Strike-out

33. The respondent asked us to consider whether to strike-out under Rule 37 (1) Employment Tribunal Rules of Procedure 2013 on two grounds. The first is under 37 (1) (a) - the manner in which the proceedings have been conducted by or on behalf of the claimant has been scandalous or vexatious or has no reasonable prospect of success; and 37 (1) (e) the tribunal considers it is no longer possible to have a fair hearing in respect of the claim.

34. First, in relation to the claimant's conduct, the respondent points to the claimant's apparent covert recording of a preliminary hearing by telephone on 20 April 2020. The claimant has provided what he describes as a verbatim transcript of the hearing when he applied to the EAT. The respondent also points to the claimant's conduct in what he writes to a variety of people in the proceedings, to his applications for review and appeal, even of the most routine of case management directions and his constant poor behaviour.

35. The respondent took us some examples which it is necessary for us to consider. There are a substantial number and we quote some by way of example. At page 229 of the bundle is an e-mail from the claimant to the tribunal, copied to the respondent and a number of other organisations:

> *"Michael, Gill and Judge Elizabeth (Manley) fuck off with these critical quotes. Bul*shit in your last correspondence"*

36. Again, in an e-mail to a great number of people, including many at the respondent, as well as the Employment Tribunal, an e-mail of 1 March 2021 (page 234):

> *"Madam's clerk, ……(*anonymised*) and Judge Isabell Manley pre word indeed one of us either stupid (incompetent in your honour case), either dodgy (orchestrated in your honour case) …… your style is the poor ignorance and huge loads of the Bul*s*it – please stop this obvious shame. Be legal – not a marionette."*
>
> *"Judge – marionette and her puppet clerk are trying to avoid trace any pieces of evidence about their own conduct (2018 – 2020) this scenario was unofficially advised by the British Government, who are covering bastardinio which provoked the suicide. The final target of Judge Manley is struck out, the case without any legal traces or options for the appeal in the EAT or CofA. This is the peak of immorality not only for a judge – but for anyone else who was involved in my dirty dismissal."*

37. There are then a number of links to YouTube channels and references to various other matters. In an apparent reference to an EAT decision, he writes

> "*where Judge Shanks had deliberately created an end to the absolute use core data in the reasons pre word" …*

"It gave judge the shameless and dishonest unlikely simply idiotic, right to the following idea that the raised issues in the EAT1 are simply out of time".

"My honour without a glory, it was clearly a very dirty and unprofessional job made by the puppet of the system. Shame on your dishonest and orchestrated actions."

38. There are a significant number of similar comments in e-mails including references to corruption and the involvement of the security services.

39. It was also pointed out that the claimant had made applications to the Employment Appeal Tribunal and applied for leave to the Court of Appeal, raising similar concerns about the security services and so on, even when there were simple and straight forward case management decisions. This, the respondent submits, uses judicial and administrative resources and means considerable costs are incurred for the respondent. The claimant appears to be undertaking several of pieces of litigation or complaints of various sorts against a number of organisations, has referred to previous employer litigation himself, but also matters concerning the DWP, SSCS, Police and NHS.

40. The claimant also pursued a defamation action in the High Court against former co-workers who made statements in his disciplinary proceedings. These matters were struck-out but were of considerable concern to people that the claimant had previously worked with. What is more, he has posted matters on social media which are upsetting, particularly in view of the fact that there was an unfortunate suicide and the claimant has put on his YouTube channel allegations of blame for that incident. They are highly libellous and offensive matters which the respondent has to try and deal with. Although allowances might need to be made for the claimant's mental health, his behaviour goes too far in allowing justice to take its course. His behaviour is particularly difficult to deal with.

41. The claimant responded. He first started by asking about the response and his suggestion that the respondent has responded to the wrong claim form which the tribunal find no evidence of. He also complained about notice given to him for this hearing and repeated some of his concerns about the judge's involvement. Before he answered the respondent's points on his conduct, he made an application to postpone this hearing and to transfer it to central London. He repeated an allegation which he had made earlier about one of the non-legal members sleeping which matter had been dealt with by clearly stating that non-legal member was not sleeping and there was no evidence to that effect. He appeared to be renewing the application for the judge to recuse herself, for the hearing to be adjourned and for various orders, including an order to record the hearing. These applications were all refused and the claimant was informed that this was his chance to respond to the application that his

claim be struck-out on the grounds of his conduct and that a fair trial was not possible.

42. Most of the claimant's comments at that point were with respect to what he considered to be the judge's need to recuse herself. He was asked to consider how his behaviour might impact on the people not directly involved in the justice system, particularly in relation to what he placed on social media. The judge asked him whether he considered that might be upsetting for other people. The claimant said that the manager involved must take responsibility for his actions which the claimant believed led to the suicide. He believed that his own actions are very reasonable because he speaks the truth, that others are trying to cover up matters. He said that he had many other cases in the courts and there were a number of fake records, particularly from the respondent. He has evidence that a number of British companies are stealing money from their employees. He does not accept that he has been wasting time or costs in pursuing these matters which he feels he is entitled to pursue. He then applied for a number of orders to disclose reports, that matters must be answered in writing, a further application for the judge to recuse herself and a number of other matters.

Tribunal's findings on strike out for conduct and/or a fair trial is no longer possible

43. It was quite clear to the tribunal that the claimant's conduct is such that the claim must be struck out. His conduct has been scandalous, unreasonable and vexatious. Although the tribunal often has to make allowances for some litigants, particularly those who are in person, and who find the proceedings upsetting and challenging, this goes far beyond that. The claimant seems to be unable or unwilling to behave appropriately. There is good reason to believe that he has been covertly recording some of the proceedings in the tribunal, even when instructed not to, he has used abusive and offensive language aimed at judges, solicitors on the other side and colleagues who work in the administration part of the tribunal. What is more, and perhaps more importantly, he also seeks to involve ordinary people who have happened to come across him in their working lives.

44. This is completely unacceptable. The claimant's determination to continue commenting on public social media sites is such as to give the people involved serious cause for concern. The fact that he started a High Court defamation action against people who gave statements in an internal investigation about an incident in work is completely disproportionate. We have no doubt that the claimant understands that some of this conduct is scandalous and unreasonable. He uses abusive language and he knows the effect that can have on various recipients of this language. Nor does he cease from using it when he attends a hearing. He has accused the tribunal of a number of dishonest and incompetent actions and in hearings he takes up considerable time, often deciding to stand, raising his voice and not being able to listen to advice. From time to time, he did sit and listen politely but he was unable to state his position clearly and kept going

back to matters which he had raised a number of times over the course of the day. The tribunal was most concerned about his lack of care for ordinary working colleagues and tribunal staff. We would strike-out the claims on the grounds of the claimant's scandalous and vexatious behaviour.

45. What is more, it is quite clear to the tribunal that there is no prospect of a fair trial in this case. The claimant is unable to take advice and he constantly interrupts, seeks to give instructions to the tribunal and the judge and is unable to frame a case that is capable of being determined. The way in which this litigation has been conducted to date is wholly disproportionate. The tribunal has to consider the overriding objective and the ability of the tribunal to deal with other cases in the system. It is simply impossible to proceed with a matter where a litigant decides to take issue with each and every tiny point which is designed to progress matters and this impacts on other cases in our system. There have been delays in this case, most of which were not directly attributable to the claimant but it adds to the difficulty of proceeding to trail. It is no longer possible to have a fair hearing in this case and, if we had not struck out for other reasons as sated above, we would strike it out on that ground.

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Employment Judge Manley

Date: …11th June 2021..

Sent to the parties on: .14th June 2021
THY

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For the Tribunal Office

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