



EMPLOYMENT TRIBUNALS

Claimant

Respondents

Mr F Kadri

AND

HCA Healthcare UK

Heard at: London Central Employment Tribunal

on: 28 May 2021

before: Employment Judge Deol

Representation

For the Claimant: Ms Beech (Counsel)

For the First Respondent: Ms Robertson (Counsel)

PRELIMINARY JUDGMENT

1. The issues to be decided at this Preliminary Hearing are addressed as follows:
 - (i) the Respondent withdraws its application for the Tribunal to reconsider its decision to accept the Claimant's claim as notified to the Employment Tribunal by correspondence dated 7 April 2021;
 - (ii) the Respondent concedes the Claimant's application to amend the claim to name HCA International Limited in place of HCA Healthcare UK (the trading name).
 - (iii) The Respondent withdraws its application to strike out the claim on the basis that the Claimant has not named the legal entity that was his employer on the claim form as notified to the Employment Tribunal at the outset of this hearing.
 - (iv) The issue of whether the Claimant was disabled within the meaning of s.6 and Schedule 1 to the Equality Act 2010 at the relevant time is to be determined at the full merits hearing listed for **16, 17 & 18 August 2021**.

- (v) The Claimant's application to amend the claim to include the words "*the Claimant relies on spinal damage, pancreatitis, Type 2 diabetes and the poor condition of his heart*" after the words "*disability/long term illness*" in the ET1 Claim Form is allowed.
- (vi) The issue of costs in relation to this Preliminary Hearing was not addressed but either party is at liberty to pursue a written application for costs within 21 days of this Judgement.

REASONS

1. Given that a number of the other preliminary issues had fallen away by the outset of the hearing it was unfortunate that the only live issue, that of the Claimant's disability status, could not be determined at today's hearing.
2. The reason for this was not the lack of information about the Claimant's medical conditions, or the inadequacy of his impact statement as had been suggested by the Respondent. Neither was it because the Claimant had updated his impact statement a few days before the hearing, further to a specific request from the Respondent.
3. The information available at this hearing, including discharge letters and detailed occupational health reports was sufficient to determine the issue. If there were gaps in the Claimant's medical information, the burden of proof (and risk) fell on him.
4. The medical information supplied by the Claimant extended to all of his medical conditions, all of which the Respondent was aware of. The Respondent had not suggested that an amendment was necessary to add these medical conditions in advance of this Preliminary Hearing, an argument that the Claimant conceded – adopting a more cautious approach than was required.
5. The reason for the adjournment was that by the time the Respondent's late application for a postponement was considered and addressed, and given a number of technical difficulties at the outset of the hearing there was insufficient time to hear the evidence and consider the issue of disability in full.
6. The Claimant wished to proceed with the Preliminary Hearing, concerned of the prejudice of having to attend a further Preliminary Hearing on the issue, with the associated risk that the substantive hearing listed for mid-August may be delayed.
7. There would indeed be greater prejudice to the Claimant from having him rush his evidence, a challenge that would be made more difficult given that the translation was not simultaneous and was beset with technical

difficulties. It was also possible to remove some of the Claimant's concerns about delay by moving the preliminary issue to the main hearing in August 2021, such that there would be no delay.

8. Given that the alleged detriment is limited to the handling of the Claimant's employment in the short period between his heart attack in March 2020 and his dismissal in July 2020, that much of the evidence on the issue of disability has now been exchanged and there is potential that this issue falls away or reduces in scope before the main hearing, the listing of three days in August remains sufficient to consider the issue of disability, the merits and any remedy issues.
9. Case Management directions have been ordered separately to ensure that the case remains on track for the hearing on 16, 17 & 18 August 2021.

Employment Judge Deol

Dated: 31 May 2021

Sent: 01/06/2021

For The tribunal

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Summary reasons for the judgment having been given orally at the hearing, full written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.