



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case Number: 4106692/2020

Miss C Smith

Claimant

Yourlife Management Services Limited

Respondents
Represented by:
Ms E Griffiths
Solicitor

JUDGMENT

The claim is struck out under rule 37 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 on the grounds

- that it has no reasonable prospect of success in terms of rule 37(1)(a).

REASONS

1. The claimant brought claims of unfair dismissal, unlawful deduction in wages and discrimination on the ground of marital status. The claimant accepted that she did not have two years' service and therefore the Tribunal did not have jurisdiction to consider her claim of unfair dismissal. The claimant was asked to provide further particulars in relation to her remaining claims. The claimant sent an email on 18 January 2021 setting out the basis of her claims.
2. The respondent made an application on 29 January in terms of Rule 37 of the Employment Tribunal (Rules of Procedure) Regulations 2013 Schedule 1 that the claimant's remaining claims be struck out on the basis they had no prospects of success or alternatively an application for a deposit order in terms for Rule 39.
3. In relation to the claim for unlawful deduction from wages, the claimant was

asked to confirm whether she accepted that she had been paid the sums due to her. The claimant emailed the Tribunal on 17 February 2021 confirming that she accepted that she had been paid outstanding sums. However, the claimant, for reasons which were not explained, indicated that she was nonetheless unwilling to withdraw her claim.

4. Thereafter, parties were invited to provide any further submissions which should be considered in relation to the respondent's application. The respondent provided further written submissions, but other than indicating that she could not afford to instruct a legal representative, no further comments were made by the claimant in relation to the application.
5. The application was therefore considered in chambers by the Employment Judge.
6. In relation to the claimant's claim of unlawful deduction from wages, the Tribunal has no hesitation in concluding that this claim has no prospects of success and should be struck out. The claimant accepts that the sums which were outstanding when this claim was lodged have now been paid. There is therefore no basis for such a claim.
7. The claimant has failed to set out any basis on which she alleges that she was discriminated against in relation to her marital status. The claimant states in her email of 18th January 2021 that "At the moment I am in the process of a legal separation but legally I am still married and so my rights under this act (the Equality Act 2010) are still protected." However, the claimant has not set out any facts from which she invites the Tribunal to infer that her dismissal was related to her marital status. The claimant appears to be of the view that as she was married and was dismissed, she can claim that she was dismissed on the basis of her marital status. The claimant has not offered to establish any facts from which a Tribunal could draw an inference of discrimination. She has not provided a comparator or set out any facts from which a hypothetical comparator could be constructed.
8. The Tribunal is mindful that striking out a claim is a draconian step, particularly when a claimant is unrepresented. The Tribunal is also mindful that where there are relevant facts in dispute it is unlikely that strike out would be appropriate or proportionate and that proposition is all the more relevant in cases involving discrimination. However, the claimant has not set out any facts whatsoever which could allow a Tribunal to draw an inference that she was dismissed because of her marital status. There is no suggestion made by her that she raises any such allegation when employed and makes no reference to her marital status in her further particulars other than to say that she is still married.
9. In these circumstances, the Tribunal is satisfied that the claimant's remaining claims have no reasonable prospects of success and her claim is dismissed.

Employment Judge: Amanda Jones
Date of Judgment: 10 August 2021
Entered in register: 07 September 2021
and copied to parties