



EMPLOYMENT TRIBUNALS

Claimant: Miss K Kecskes
Respondent: Marks and Spencer Group plc and 16 others
Considered on the papers
On: 22 January 2021
Before: Employment Judge Adkinson sitting alone

JUDGMENT ON STRIKE OUT

The following parts of the claimant's claim / respondent's response are **struck out**:

- 1.1. Unfair dismissal
2. This does not affect the other claimant's complaints or any orders made in respect of them. They shall be heard and decided in the normal way.
3. The reasons for the strike out are as follows:
 - 3.1. The claimant brings a claim for unfair dismissal amongst other matters.
 - 3.2. The claimant has less than 2 years' service. Therefore the claimant would appear to be unable to bring a claim for ordinary unfair dismissal.
 - 3.3. In her claim she says that she claims "automatic unfair dismissal based on perceptive and associative discrimination". Being dismissed because of "perceptive and associative discrimination" does not give rise to a claim for automatic unfair dismissal.
 - 3.4. Her claim makes no allegations of protected disclosures or detriment or automatic unfair dismissal within the meaning of the **Employment Rights Act 1996**.
 - 3.5. On 19 January 2021 the Tribunal asked her to explain why the claim for unfair dismissal should not be struck out.
 - 3.6. She replied on 21 January 2021. The gist of her reply is summarised in the last sentence. She says that she has "been victimised harassed and treated detrimentally to the point of losing my job due to protected acts"

- 3.7. She also says “I make further protected disclosures that are again twisted and turned against me”.
- 3.8. She did not present a claim for automatic unfair dismissal from making protected disclosures. On the most generous reading of her claim, there are no claims for detriment or dismissal arising from protected disclosures.
- 3.9. She has not applied to amend her claim. Her reply cannot be read as an application to amend. It makes no reference to an amendment. It makes no reference to why she did not mention it in her original claim. It does not explain why protected disclosures are not listed in the carefully crafted and lengthy list of jurisdictions she invokes.
- 3.10. She has not detailed what she says are the protected disclosures yet alone why they are protected.
- 3.11. There is therefore no actionable claim for automatic unfair dismissal and she had insufficient service for a claim for ordinary unfair dismissal.
- 3.12. The claim for unfair dismissal must be struck out.

Employment Judge Adkinson

Date: 22 January 2021

Notes

Reasons for the judgment having been given orally at the hearing, 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.

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