



EMPLOYMENT TRIBUNALS
London Central Region

Heard by CVP on 27/10/2021

Claimant: MS M KASHANU-ONIRU
Respondent: THE OFFICE ISLINGTON LIMITED
Before: Employment Judge Mr J S Burns
Representation
Claimant: In person
Respondent: Mrs L Banerjee (Counsel)

JUDGMENT

1. The discrimination claims are struck out.
2. The Respondent's application that the unfair dismissal claim should be struck out or made subject to a deposit order, is dismissed.
3. By 24/11/21 the Claimant must pay the Respondent by its solicitors £1000 as a contribution to its costs of and incidental to today's hearing.

REASONS

For paragraph 1 of the above Judgment

1. The particulars of claim in the ET1 failed to disclose grounds for the discrimination claims.
2. On 18/8/2021 following a hearing the Tribunal ordered the Claimant to provide further particulars of her claims by 15/9/2021. The Order contained at paragraph 12 a warning that if it was not complied with the claims might be struck out or costs awarded.
3. The Claimant sent on 23/9/21 a schedule of loss which she had drafted with the assistance of a lawyer, but did not provide any further particulars. The Respondent's solicitors sent numerous chasing letters reminder to the Claimant in September and October but these were ignored. The Respondent applied for an unless order but this was not considered by a judge in time for it to be issued. The Tribunal issued a letter to the parties on 19/10/21 warning the Claimant that her failure to comply with the previous Order could lead to the claims being struck out and to a finding of unreasonable conduct leading to an order for costs. Despite this the Claimant has still failed to provide any particulars.
4. The Claimant has failed to disclose any basis for a successful discrimination claim. On her own admission today, she has no evidence or matters in this regard beyond the bare fact that she had protected characteristics. She did not oppose the striking-out and confirmed that her real claim was the claimed unfairness of her dismissal for reasons which have no discernible connection to those characteristics.
5. The discrimination claims are struck out under Rule 37 because (i) they have no reasonable prospect of success (ii) non-compliance with a Tribunal Order and (iii) unreasonable conduct by the Claimant.

Reasons for paragraph 2 of the above Judgment

6. The Order of 18/8/21 included a requirement that the Claimant provide also particulars of the claimed unfairness of the investigation, disciplinary hearing and appeal, but the Claimant failed prior to today to provide them.
7. However the original ET1 does contain some rudimentary material from which the main argument in the unfair dismissal claim can be gleaned - namely the Claimant's contention that the Respondent failed to properly investigate whether, as contended by her during the disciplinary process, the computer (which subsequently had been used by someone to view porn etc) was not in the Claimant's possession or control at the time, because it had been collected by a member of the IT department from her previously when she was working in the office.
8. The Claimant has explained orally to me today the reasons why she claims the investigation in particular was flawed, and her dismissal was unfair. I have summarised these in the Schedule to the separate Case Management Order. Having heard what the Claimant has to say, I am not satisfied that the unfair dismissal claim has no or little reasonable prospect of success.
9. As the Claimant obtained a new higher-paid job three months after her dismissal by the Respondent, the quantum of her unfair dismissal claim, even if successful, is only about £5000-£6000 at best but, in the circumstances, I regard it as in the interests of justice that it should be tried.

Reasons for paragraph 3 of the above Judgment

10. The Claimant without further excuse failed to comply with a clear Order that she provide particulars. Acting reasonably, she should either have provided particulars about her discrimination claims so they could proceed, or withdrawn her discrimination claims. She should have provided to the Respondent's solicitors the particulars which she has now provided orally to me about her unfair dismissal claim.
11. Had she acted reasonably, the Respondent would have saved the costs of having to correspond with the Claimant about this and apply for unless orders. Possibly the costs of today's hearing could also have been saved or reduced. The Respondent's solicitors have drawn up a schedule of costs in excess of £7000 in this regard.
12. The Claimant told me she is a single mother with three children but has been earning £1950 per month after tax since January 2021
13. In the circumstances it is just that she should be ordered to pay a £1000 contribution to the Respondents cost's caused by her unreasonable conduct of this case so far.

J S Burns Employment Judge
London Central
27/10/2021
For Secretary of the Tribunals
Date sent to parties :27/10/2021
