



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr E Adams

**Respondent:** Thursdays UK Ltd.

**Heard at:** East London Hearing Centre (by Cloud Video Platform)

**On:** 6 October 2021

**Before:** Employment Judge Shulman

**Representation:**

**For the Claimant:** In person

**For the Respondent:** Mr A Powis (Solicitor)

*This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was by Cloud Video Platform. A face to face hearing was not held because the relevant matters could be determined in a remote hearing.*

## JUDGMENT

The claims for unfair dismissal and a redundancy payment are struck out on the grounds that there is non-compliance with Orders of the Tribunal or on the basis that the claims have no reasonable prospect of success pursuant to Rule 37 Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013

## REASONS

### Introduction

1 At a telephone preliminary hearing at which the Claimant was present and the Respondent represented, Employment Judge John Crosfill set out up to the date of the telephone preliminary hearing (5 July 2021) the history of this matter.

2 The Claimant had made claims for unfair dismissal, discrimination – race, discrimination - religion or belief and a redundancy payment.

3 Without cutting into the detail of the hearing summary, Employment Judge John Crosfill decided that unless the Claimant made an application to amend his claim form, the Tribunal would not consider any discrimination claims on the basis of ticking boxes, which is what happened in the Claimant's claim form, and that was not sufficient to confer jurisdiction on the Tribunal.

4 However, the Employment Judge, despite the fact that the claims for unfair dismissal and redundancy were bereft of information, gave the Claimant an opportunity no later than 31 August 2021 to provide the Respondent with further information which the Employment Judge spelt out. He also gave the Claimant the opportunity to make an application to amend his claim form in respect of the discrimination claims by the same date.

5 This hearing was for the purpose of considering:-

- (1) Any application to amend the claim made by the Claimant.
- (2) Whether or not to strike out the claim of unfair dismissal, which I have taken to include a claim for redundancy.
- (3) Whether it would be appropriate to order a deposit as a condition of pursuing the unfair dismissal claim or any other claim for which leave to amend is given.
- (4) To identify the issues and list the matter for a final hearing.

### **This hearing**

6 At the outset of this hearing the Claimant claimed that he had not received a summary of the telephone preliminary hearing on 5 July 2021. I asked the clerk to check whether and where this was sent. It was sent on 5 August 2021 to [aebrima46@gmail.com](mailto:aebrima46@gmail.com) and the Claimant confirmed that this was his email address. I arranged for the Claimant to have another copy of the summary by email, which the Claimant confirmed he had received. He also confirmed that he was present at the telephone preliminary hearing on 5 July 2021.

7 I gave the Claimant from 10.15am until 10.30am to read the summary. I made it clear that he could have more time if he wanted it. The Claimant came back at about 10.30am and said that he had read the summary.

8 There then followed a long discussion as to whether or not the Claimant had complied with the orders, furnishing further particulars and making application for leave to amend.

9 Eventually Mr Powis, on behalf of the Respondent, stated that the Respondent had received nothing from the Claimant since 5 July 2021 and that the claimant had had four opportunities to plead his case. Mr Powis identified these matters as the claim form, 17 March 2021, 26 May 2021 and at the hearing and the orders thereafter on 5 July 2021

10 The Claimant informed us that he had sent an email on 5 August 2021. This was to the Tribunal and not to the Respondent as required by the order. The email contained details of the then forthcoming disciplinary process and barely touched the surface of the Claimant's claims.

11 The Tribunal proceeded to take the Claimant through the order (see paragraphs 1 and 2 of the Case Management Orders of 5 July 2021). Referring to the paragraphs in those orders and having regard to the answers given by the Claimant to the Tribunal, the following are the conclusions of the Tribunal as to whether those orders (paragraphs 1 and 2) are complied with. In any case it was clear that no information was furnished by the claimant on the Respondent as ordered:

1. This was not complied with

2.1 There was information in the claimant's email of 5 August 2021 but this was not furnished on the Respondent.

2.2 This was not complied with

2.3 There was information in the claimant's email of 5 August 2021 but it was not served on the Respondent.

2.4 This was not complied with

2.5 This was not complied with

2.6 This was not complied with

2.7 This was not complied with

2.8 This was not complied with

2.9 This was not complied with.

12 According to the Case Management Order paragraph 3 dated 5 July 2021 the Claimant admitted that he had not made an application to amend his claim and, therefore, that was an end of the matter.

### **13 Determination of the Issues**

14 (After listening to the factual and legal submissions made by and on behalf of the respected parties):

14.1 No application had been made to amend the claim by the Claimant

14.2 Having heard from the Claimant as to what he felt his case was, rather than having put it down on paper as ordered by Employment Judge John Crosfill,

the claimant told the Tribunal that he had been employed by the Respondent for 27 years and done nothing wrong and left matters in the hands of his trade union. The fact however is that this was a serious breach of the order to provide the Respondent with further information about his claims for unfair dismissal and a redundancy payment and indeed no later than 31 August 2021. This he had not done. Therefore, the Tribunal strikes the claimant's claims for unfair dismissal and/or a redundancy payment on the grounds that the Claimant has not complied with the Order of the Tribunal (5 July 2021) and/or there is no reasonable prospect of success in relation to his claims.

14.3 There is no need to adjudicate on the question of a deposit order, having regard to the strike out and the fact that the Tribunal has no jurisdiction to adjudicate on the discrimination claims.

14.4 There is no need to identify the issues.

15 The Claimant would undoubtedly have benefitted from some representation and the Tribunal accepts that this is not always possible. The Claimant's problem appeared to stem from the fact that whilst he was sincere about having a case, he did not understand the concept of the Respondent having to know what it faced in order to prepare for and conduct the final hearing. Therefore, he had not appreciated the content and the intent of Employment Judge John Crosfill's orders and simply failed to comply with them. Had he been able to comply with them then he would have had the opportunity to present his case at a final hearing.

**Employment Judge Shulman  
Date: 3 November 2021**