



EMPLOYMENT TRIBUNALS

Claimant: Mr A Hagan-Cherry

Respondent: Uber Britannia Limited

Heard at: Leeds (by video) **On:** 8 November 2021

Before: Employment Judge Knowles

Representation

Claimant: In person

Respondent: Mr F Campbell, Counsel

REASONS

1. The issue for determination at today's preliminary hearing by video was agreed as being to determine the Respondent's application to strike out the claimant's claims or that he be ordered to pay a deposit to continue his claims.

2. In my conclusion the Claimant's claims for breach of contract are not ones that this Tribunal has jurisdiction to hear. He has not disputed the Respondent's contention that he is a worker not an employee. He does not dispute that he is still engaged by the Respondent. The Claimant's claims of breach of contract are struck out under Rule 37(1)(a) because they have no reasonable prospect of success.

3. Although the Claimant has not ticked the box in his claim form to indicate that he is bringing a claim of discrimination, he has ticked the box stating that he is bringing another type of complaint and has put in the text box "prejudice of employer".

4. In his background and details of the Claim the Claimant sets out complaints concerning his suspension from driving following a customer complaint. He states that this resulted in him losing earnings, holiday pay and employer pension contributions.

5. He then goes on to state "I believe that Ubers action is inhuman, discriminative and prejudice to drivers and all I am asking for is a compensation for the loss of earnings, holiday pay and employers pension contributions which

they were meant to pay if I was working.”

6. In tribunal today the Claimant has suggested that his claim is one of race discrimination and that the original customer complaint may have been made because he is black and that Uber should have protected him from that discrimination. The claimant then described it as a complaint of vicarious liability. These matters are not set out in the claim form.

7. I am prepared to acknowledge, noting that the Claimant is a litigant in person, that the claim form appears to contain a complaint of discrimination. It is inadequately pleaded and further information is needed. The claim form should be read as a whole and the question is not whether or not the Claimant has ticked the correct boxes.

8. I am not prepared to strike out the Claimant’s claim entirely or to make an order for a deposit. The Claimant’s discrimination complaint requires further case management. I cannot say whether or not the claim has no reasonable or little reasonable prospects of success until there is further information and the issues in this claim are clear. It may be that there are grounds to strike out the claim or order a deposit in future, but until the Claimant has provided further information to fully set out this complaint it would not be appropriate to make an order. Such an order would in my conclusion be premature.

9. The Claimant’s claim will require careful case management to determine which elements of Part 5 and/or Part 8 of the Equality Act 2010 are engaged.

10. The Claimant’s claims of breach of contract are struck out.

11. But his claim of discrimination can proceed to further case management.

Employment Judge Knowles

24 November 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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