



EMPLOYMENT TRIBUNALS

Claimant: Mr D Opoka

Respondents: (1) Amazon Logistics UK Services
(2) Heads Recruitment Ltd t/a Proman

Heard at: East London Hearing Centre

On: 9 November 2021

Before: Employment Judge C Lewis

Members: Mr T Brown
Ms G Forrest

Representation

Claimant: Did not attend

Respondent 1: Mr O Holloway (Counsel)
Respondent 2: Mr B Williams (Counsel)

JUDGMENT

The unanimous judgment of the Employment Tribunal is that the claim should be dismissed under Rule 47 of the Employment Tribunal Rules of Procedure 2013.

REASONS

- 1 The hearing was listed to take place from 9 to 12 November 2021 at the East London Employment Tribunal.
- 2 The Respondent attended the hearing with counsel and solicitors and their four witnesses. The Claimant did not attend.
- 3 The Tribunal had been provided with a bundle for the hearing. The Claimant had sent in by email a supplemental bundle a "Remedy witness statement" and a document entitled "Further and Better Particulars witness of DJ Opoka". The Respondent had

provided a final hearing bundle (electronic and hard copies) together with a bundle of witness statements, including the Claimant's witness statement served on them by him, and a bundle consisting of recent correspondence from the Claimant, the Respondents, the Tribunal and other courts between 1 October 2021 and 7 November 2021, the last of which was an email from the Claimant sent at 23:01. Much, but not all, of that correspondence had reached the Tribunal's file in advance of the hearing, the last document on the Tribunal's file was the email from the Claimant of 5 November 2021 sent at 16:30.

4 The Tribunal heard submissions from Mr Holloway and Mr Williams, we then adjourned to consider the correspondence, including the matters set out by the Claimant in his correspondence to the Tribunal and in his witness statement to understand his reason for not attending the hearing.

Decision to dismiss the claim under Rule 47

5 We find that the Claimant does not intend to attend this Tribunal hearing or any other hearing dates that would be provided for the reasons he has given in his statement and email correspondence. He does not accept the Employment Tribunal's jurisdiction, and he has made clear he is not going to be attending the hearing today or, if it were to be adjourned, on any other occasion.

6 The Claimant was asked to clarify his position by Regional Employment Judge Taylor and in his response on 5 November 2011, he repeated the position that he was not going to attend. We are satisfied that the Claimant has been consistent in that stated intention since 2 October 2021 when he sent an email to the Tribunal stating that he did not consent to and would not attend the trial on 9 December 2021, i.e. this hearing. He informed the Tribunal:-

- (1) I do not consent to the already rigged trial since 27/01/21 which is set for the 9th to the 12th 2021. This violate my convention to the core. I cannot consent the violation of my convention by judicial injustices.
- (2) I will not take part in the further violation of my convention and substantial rights in the next trial set for 9 to 12/11/21.

He set out his reasons in the rest of the email.

7 On 16 October 2021 [page 52 of the correspondence bundle] the Claimant sent an email again to this Employment Tribunal, amongst other recipients, stating that:

“I will not attend the manifestly rigged trial that arbitrarily violate my entire convention which is due from 09/11/12 at Employment Tribunal. I do not, will not support and knowingly consent to my convention and substantial rights' violation.”

8 We find that the reference in that document to asking for a stay was addressed to the Court of Appeal Civil Appeals Office, which can be seen from the context of the other emails addressed to that Court and his application notice [at page 94 of the bundle].

9 The Claimant has made a number of attempts to overturn the earlier decisions of the Employment Tribunal in these proceedings. Those decisions being, firstly, the decision to refuse his application to amend his claim made in January 2020 by Employment Judge Lewis, and secondly, the decision to strike out part of his claim made by Employment Judge Massarella in October 2020. He has appealed unsuccessfully to the Employment Appeal Tribunal and to the Court of Appeal (this appeal appears to have been lodged out of time) he then sought permission to leapfrog to the Supreme Court, and he now states that he is pursuing an appeal, or proposing to, at the European Court of Human Rights.

10 In his appeal application notice [page 96 of the bundle], he refers to the trial dates being four days from 9 November 2021 but states:

“I do not knowingly consent to a rigged trial that manifestly violate my entire convention and substantial rights, hence I will not attend the violation trial.”

11 In response to the Claimant’s letter of 2 October 2021 [page 1 of the correspondence bundle] which states that he did not consent to the rigged trial and would not be taking part. on 20 October 2021, on Regional Employment Judge Taylor instruction, the Claimant was asked to confirm whether he was withdrawing his case. The Claimant responded on 22 October 2021 [p.130 of the bundle] in an email addressed to the Employment Tribunal and the Civil Appeals Office and others, stating under the heading “For Clarity”:

- “1. I do not consent to or knowingly volunteer to be a party to my convention violation. 99% of my claims were rigged out since 27/01/20, Article 37 ECH was rigged.
2. The case must involve an alternative independent and impartial tribunal...
3. Avoid the aggravation of my convention violation as a matter of law...”

He set out under both of those headings his objections and asserted that an:

“alternative independent and impartial tribunal established outside the UK state legal jurisdiction must now be involved in effective redressing of the disputes since UK state failed at all levels to: a) secure/protect my convention and substantial rights, liberty and possessions, b) provide effective remedies to the violations.”

12 Included in that response which took issue with the results of the hearing on 27 January 2020, 26 June 2020 and 21 October 2020 the following:

“I am relying on my convention rights and freedom to object and refuse to be a party to manifestly arbitrary violation of my convention by judicial acts and by corporations within the convention jurisdiction of the state, to disregard all subsequent state acts after to its ultra vires act on 27/01/20 and many other ultra vires acts that followed. There is no justice for me in attending the ET rigged trial on 09-12/11/21, or be part of any other state act with involvement of an “independent and impartial body who respect my convention and substantial rights, liberty and possessions and the rule of law”.”

13 On 25 October 2021, the First Respondent applied to strike out and/or dismiss the Claimant's claims following his representations that he would not attend the final hearing and this was supported by the Second Respondent who confirmed on 25 October 2021 that they were in agreement with the contents of the First Respondent's email and that it set out their joint position. That application was to strike out the claim on the basis it was not being actively pursued and for unreasonable conduct, a chronology of the proceedings was briefly set out. The Respondent reserved its position in respect of any application for costs.

14 On 2 November 2021, Employment Judge Burgher informed the parties that the Respondent's application to strike out the claim would be considered at the start of the hearing on 9 November [pgs.156-157], if the Claimant did not attend or participate.

15 On 5 November 2021, the Claimant responded to that correspondence. At paragraph 2 of his response, he interpreted that as meaning that the trial was still rigged in total violation of his convention and other rights invoked:

"I see no reason to face the humiliating violation of my convention for the same pre-determined outcomes, irrespective of presence or not."

16 The Claimant's statement dated 5 November 2021 headed: "To whom it may concern", repeats the same points and reiterates at point 2 in respect of the notification that the Respondent's application to strike out would be considered at the full merit hearing if the Claimant did not attend that this was evidence of:

"continuous flagrantly arbitrary institutionally discriminatory partiality and malicious lies in public functions to me by the state since 27/01/20. This means the trial is still rigged in total violation of my convention and other rights invoked. I see no reason to face the humiliating violation of my convention for the same pre-determined outcomes, irrespective of presence or not."

17 On 7 November 2021, the Claimant sent an email at 23:01 attaching a copy of an application notice in respect of claim A2/2021/0844A which was described as his: "final challenge on the disproportionately substantive convention violation vs procedural termination threats", in which he described the proposed hearing as: "shambolic judicial robberies" and that the: "ET-COA are too partial, dishonest and powerless to deliver satisfactorily adequate and efficient remedies for all of my violated convention and substantial rights. I have exhausted all domestic remedies ..." and stated that he is now pursuing the case in the European Courts of Human Rights and the UK Supreme Court.

Conclusion

18 We find that the Claimant has made it clear repeatedly that he would not be attending the hearing today. We are also satisfied that he knew that if he did not attend the Tribunal would consider whether to strike out his claim. We considered whether to dismiss the claim under Rule 47 for non-attendance or to strike out for unreasonable conduct as described in the correspondence from the Respondents. The Respondent's primary application was for dismissal under Rule 47. We are satisfied the Claimant's failure to attend today is deliberate. He has not applied for a postponement or

adjournment. We are satisfied from the contents of his emails and statements that he does not accept the validity of these proceedings going ahead and does not accept the jurisdiction of the Tribunal. We are also satisfied that it would not be in accordance with the overriding objective to proceed in his absence. The Claimant has made allegations that he is not here to put forward in evidence and be cross-examined on and he is not here to cross-examine the Respondent's witnesses. The burden of proof lies on him to establish his claims. We find that this would not be an appropriate case to proceed in the absence of the Claimant. Neither of the Respondents seek us to pursue that course. Indeed, they are in agreement this would not be in accordance with the overriding objective. The Claimant does not want us to go ahead in his absence, nor do we find that would be just or in accordance with the overriding objective to do so.

19 We are satisfied that the appropriate course is to dismiss the claim under Rule 47.

**Employment Judge C Lewis
Date: 23 December 2021**