



# EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

and

Respondents

Mrs M Nworji

Boots Management Services Ltd

## JUDGMENT AND ORDER ON PRELIMINARY HEARING

HELD AT: London Central

ON: 10 January 2022

BEFORE: Employment Judge A M Snelson (sitting alone)

On hearing Ms S Mackie, solicitor, on behalf of the Respondents and there being no appearance or representation by or on behalf of the Claimant, the Tribunal orders as follows:

### JUDGMENT

The Claimant is ordered to pay to the Respondents a contribution towards their costs of the hearing of 10 January 2022 in the sum of £500.

### ORDER

- (1) Unless, no later than 24 January 2022, the Claimant delivers to the Tribunal a document which complies fully with the entirety of para 1 (including subparas 1.1-1.4) of the Case Management Orders contained in the Order of Employment Judge Nicklin made on 18 November 2021 and sent to the parties on 22 November 2022 **and** by the same date delivers an electronic copy of her document to the Respondents' representative, the entire claim form will stand struck out and the proceedings will therefore be at an end with no further act or intervention by the Tribunal.
- (2) Paras (3)-(9) below have effect subject to the Claimant complying with para (1) above.
- (3) No later than 7 February 2022 the Respondents shall deliver amended grounds of resistance containing all grounds on which the claim as clarified pursuant to para (1) will be resisted.
- (4) No later than 25 February 2022 the parties shall exchange:

- (a) lists of all documents which are, or have been, in their possession or control and which are, or may be, relevant to any issue in the proceedings including, for the avoidance of doubt, any document which may not assist the disclosing party's case and/or may assist the opposing party's case; and
  - (b) copies of all listed documents.
- (5) The parties shall cooperate to agree a common bundle of documents for use at the hearing referred to below ('the hearing'), primary responsibility for its preparation resting with the Respondents. Preparation of the bundle shall be completed no later than 20 May 2022 and one copy supplied at once to the Claimant. At the hearing the Respondents shall produce five further copies of the bundle for the Tribunal's use.
- (6) No later than 10 June 2022 the parties shall exchange witness statements in the names of all witnesses (including the Claimant) whom they intend to call to give evidence at the hearing. Every witness statement shall:
- (a) be typed in double line spacing;
  - (b) be laid out in short, numbered paragraphs;
  - (c) set out the relevant events in chronological order, with dates;
  - (d) contain all the evidence which the witness is called to give;
  - (e) exclude any matter not relevant to the issues to be determined;
  - (f) state the source of any information not acquired at first hand;
  - (g) be signed and dated.

At the hearing each party shall produce for the Tribunal's use five further copies of every witness statement served on the opposing party pursuant to the above direction. Except with the special permission of the Tribunal, no witness may be called at the hearing unless a statement in his/her name has been prepared and delivered to the opposing party in accordance with the above directions.

- (7) No later than 1 July 2022 the Claimant shall deliver to the Respondents' representative and copy to the Tribunal a schedule of all remedies claimed in the proceedings.
- (8) No later than 4 July 2022 the Respondents shall send by email to [londoncentralet@justice.gov.uk](mailto:londoncentralet@justice.gov.uk) electronic copies of the papers to be presented at the hearing, including the trial bundle, the witness statements, skeleton arguments or written openings and any chronology or other relevant document, or a link to a website from which they can be downloaded. The following points should be carefully noted:
- (a) all documents should be sent in pdf format;
  - (b) the index to the trial bundle should be sent as a separate document, so that the page numbers of the hearing bundle align with the thumbnail page numbers of the pdf;
  - (c) any late additions to the trial bundle must be inserted at the end, not in the middle;
  - (d) witness statements should be contained in a separate pdf bundle;
  - (e) chronologies, skeleton arguments and other sundry documents should be contained in a further, separate pdf bundle.

- (9) The final hearing of all issues of liability and remedy shall be held at 10.00 a.m. on 5 July 2022, with four consecutive sitting days allocated on the basis that the evidence and submissions on liability must be completed by the end of day three at the latest.

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**NOTES:**

- (1) Any person who without reasonable excuse fails to comply with an Order to which section 7(4) of the Employment Tribunals Act 1996 applies shall be liable on summary conviction to a fine of £1,000.00.
- (2) The Employment Tribunals Rules of Procedure 2013 (to which any reference below to a rule refers) provide by rule 6 that if an Order is not complied with, the Tribunal may take such action as it considers just, which may include waiving or varying the requirement, striking out the claim or response (in whole or in part), barring or restricting a party's participation in the proceedings and/or awarding costs.
- (3) You may apply under rule 29 for this Order to be varied, suspended or set aside.
- (4) Where reasons have been given orally on any disputed issue, 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.

**COMMENTARY**

1. The needlessly complicated history can be gleaned from the Orders of EJ James issued on 20 September (but referring back to a hearing on 22 June) and EJ Nicklin made at a hearing on 18 November 2021 but sent to the parties on 22 November 2021.
2. The matter came before me in the form of a public preliminary hearing by CVP to consider the Respondents' application for the only remaining claim, for disability discrimination, to be struck out and, subject to that, further case management. The Respondents appeared by Ms Samantha Mackie, a solicitor. The Claimant did not attend. That has happened before in these proceedings. I put the matter back by 15 minutes and my clerk attempted to contact the Claimant by telephone and email. She did not respond. I was satisfied that she had had due notice of the hearing and that it was proper to proceed.
3. For reasons given orally, I was just persuaded, despite the persuasive arguments of Ms Mackie for the Respondents, that the drastic measure of striking out the claim was not warranted despite the Claimant being in clear breach of the Orders of Judges James and Nicklin. Rather, I decided to make an 'unless order'. That gives her one last chance to live up to her responsibilities as a litigant in this Tribunal. The Order (para (1) above) means what it says. If she does not, fully and by the specified date, comply with every requirement of Judge Nicklin's Case Management Order, paras 1.1-1.4 inclusive, her case will automatically be struck out and so come to an end without the Tribunal taking any further action.

4. I draw attention to para (3) (amended grounds of resistance), a procedural step which I omitted to discuss with Ms Mackie.
5. My other directions (paras (4)-(9)) provide a timetable of the further procedural steps which must be taken to bring the case to an effective hearing. The documentary disclosure (para (4)) must include all medical records which either party wishes to rely on relevant to the question whether the Claimant was at any relevant time disabled by her knee condition ('the disability issue').
6. The Claimant's witness statement (para (6)) must include all facts relied upon as relevant to the disability issue, including the history of her condition, treatments and therapies applied and its impact on her ability to undertake normal day-to-day activities.
7. The schedule of remedies (para (7)) should state in particular the compensation claimed for injury to feelings having regard to the 'Vento' guidelines (these may be researched online).
8. As to the hearing date (5 July), Ms Mackie asked me to place on record that, given the Claimant's non-compliance with prior directions, she had not been able to reach a final position on the number of witnesses to be called on behalf of the Respondents or their identities. That is understood. Any application to vary the trial date or the 4-day allocation should be made promptly and for good cause.
9. The Claimant must understand that the 'Notes' above mean exactly what they say. Even if she complies with para (1) and her claim survives after 24 January, she must be in no doubt that *any* breach of this Order is likely to result in a striking-out Order.
10. I gave oral reasons for the costs award contained in my Judgment above. That award was made on the basis of an assumption, favourable to the Claimant, that her means are very modest. Again, she must understand that further disregard of the Tribunal's directions will inevitably put her a further risk of costs penalties.

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EMPLOYMENT JUDGE – Snelson  
10/01/2022

**Judgment entered in the Register and copies sent to the parties on : 10/01/2022**

**For Office of the Tribunals**