



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr. Bright Ampomah

**Respondent:** Just Build UK Limited

**HELD AT:** Cardiff Employment Tribunal (By CVP)

**ON:** 13 January 2022

**BEFORE:** Judge of the First-Tier Tribunal Lloyd- Lawrie, acting as an Employment Judge

## JUDGMENT

The Claimant's claim is struck out.

## REASONS

1. The Tribunal issued a second unless order on 22/11/2021 during a preliminary hearing, requiring the Claimant to set out, in detail, his wages claim and expenses claims by no later than 4pm on 6/12/2021. This was done as the Claimant had sent many emails containing duplicated and lengthy documents and it was not clear what he was actually claiming he was owed in relation to both wages and expenses. On 09/12/2021 the Respondent wrote in stating that as the Claimant had failed to comply, they asked the Tribunal to give effect to the order. On 20/12/2021, an email was sent to the parties, giving my preliminary view which was that whilst there was a large amount of irrelevant material served, there was material compliance as it appeared that the Claimant was claiming that he was owed £2709.15 in terms of expenses and £5074.64 in terms of unpaid wages. I advised that the Respondent had 7 days to consider my preliminary view or if they did not agree, to ask for a further preliminary hearing to deal with the compliance issue. I also directed the Claimant to remember that sending duplications of documents to the Respondent and Tribunal was not helpful and asked him to keep his correspondence short and just address the issues that he was being asked about. The Respondent exercised their right to request a preliminary hearing and that was held today.

2. Following this issue, the Claimant continued to send multiple documents to the Respondent. On 10/01/2022, the Respondent made an application to the Tribunal, copied to the Claimant, asking for an order to strike out the claim due to the Claimant's conduct and his failure to provide evidence of his right to work in the UK. The Tribunal advised parties that I would deal with all matters during the hearing today.

3. Mr. Howells had been instructed to represent the Respondent. He conceded that after spending a full day reviewing the paperwork submitted by the Claimant, he considered that there had been material compliance with the unless order. He expressed concern that the Claimant had given different figures in relation to his wages claim but said he would deal with that as part of his strike out application.

4. The power to strike out a claim is contained in Rule 37 Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013. The rule relevant to this appeal is that contained in Rule 37 (1) (b) which is "that the manner in which the proceedings have been conducted by or on behalf of the claimant or respondent (as the case may be) has been scandalous, unreasonable or vexatious".

5. Mr. Howells made an application for strike out on the basis that he said that the Claimant's conduct was unreasonable, scandalous or vexatious. He pointed to the duplication of documents causing a bundle of 951 pages for what is a low-level wages and expenses claim and the fact that the Claimant had continued to send further duplications of document on 24/12/21 and 25/12/21 and then 14 separate emails on 10/01/2022, after I had directed him to stop this practice. He argued that this was unreasonable conduct. He advised that the Claimant had been abusive in his communications with the Respondent of 13/12/2021 where he responded to the service of documents by the Respondent, by stating that he would charge more for what he claimed were false allegations. He advised that the Claimant had already done this by claiming figures ranging from £1000 to £500000 for claims that are entirely spurious in nature and therefore simply caused more work and frustration for the Respondent and the Tribunal. He advised that by continuing to ask for wages to hearing date when there had already been a decision as to the date the Claimant was dismissed, was also unreasonable and that the fact that the Claimant's claimed wages kept changing, when they had already been broken down into hours, can be said to be dishonest as the Claimant had not claimed he had made a mistake in the first instance. He claims that the Claimant was continually not complying with Tribunal orders and had been told that he must copy the Respondent into correspondence but still was not doing so, even after being expressly told to by Employment Judge Jenkins. He claimed that this caused the Respondent to not be in possession of full facts and therefore to waste time making applications, such as to say that the unless order had not been complied with. He said that the Claimant had also failed to comply with the order following the first preliminary hearing to particularise his automatic unfair dismissal claim and then to the unless order that followed that, which had led to the striking out of that part of the Claimant's claim. He advised that all of this was an intolerable burden on the Respondent and one that could not be remedied by a costs award as the Claimant was of low means and even if any award was set off against costs, the legal costs for the Respondent and the time costs would be far in excess of what it appears is claimed by the Claimant. The Respondent also pointed to breaches to comply with the orders in relation to disclosure leading to the hearing of 18/10/2021. He advised

that there would not be any measures stopping short of strike out as other avenues had been tried and had failed to stop the behaviour of the Claimant.

6. The Claimant was given the right to make representations and was aware of the application in advance of the hearing. His view was that it was not his fault that there were 3 people from the Respondent's company emailing him it and it was frustrating to him to have to send documents to multiple people and that he was working all hours having to write more documents. He claimed that the messages asking for his passport were racist and nothing to do with the hearing and it was inappropriate that the Respondent had accessed his previous company records and put copies of messages over the top of the printout. When asked how the Tribunal could be assured that he would stop sending large amounts of emails containing duplicate documents, he said that he 100% would now he knew who to send things to and would only send relevant documents.

7. In writing these reasons I noted that I did not deal orally with the issue of the Claimant failing to demonstrate his right to work in the UK. The Respondent did not seek to raise that issue with the Tribunal during the hearing and I took no evidence on the point, as at no point was it suggested to me that the Claimant did not have permission to work in the UK. The Respondent's representative asked that it be noted that there was no racist intent with asking for the production of the Claimant's passport. I duly note that. This issue played no part in my decision making as it was not raised to me as a potential issue.

8. I find that the conduct of the Claimant in providing different figures for his wages claims both in the disclosure that followed unless order and during the hearing, to be unreasonable conduct. On the last preliminary hearing I was very clear that the claims that were still active needed to be set out clearly and wages and expenses should be dealt with separately with exactly what was claimed under each head being submitted to the Respondent and Tribunal by 4pm on 6/12/2021. The Claimant therefore should have been able to know what his claim was and provide the Tribunal and the Respondent with what the figure was he was claiming and where it was set out. Further, I find that the Claimant has been told that he must copy the Respondent into all correspondence on 9/11/2021 but has failed to do so on 3/12/2021 and 4/12/2021, causing the Respondent to then make applications to the Tribunal. Following this the Claimant also failed to copy the Respondent into his emails of 11/12/2021. I find that this failure is unreasonable. I find that the Claimant in continuing to send large, largely unexplained documents, that are sometimes contradictory in nature to the Respondent to be engaging in unreasonable conduct. I find that the failure to stop sending duplications of these documents to be unreasonable conduct. I find that the actions of the Claimant in continuing to assert he is employed and entitled to wages on an ongoing basis to be unreasonable when on 22/11/2021, I gave a clear judgment that his employment ended on 30/10/2020. I find that the Claimant's threat to keep adding spurious claims when the Respondent seeks to set out their case to be unreasonable conduct. I find that the unreasonable conduct of the Claimant is deliberate, persistent and has rendered a fair trial impossible. Following *Blockbuster Entertainment Ltd v James* 2006 IRLR 630, CA, the grounds for strike out are satisfied.

9. I have considered the guidance in the case of *Bolch v Chipman* [2004] IRLR 140. I consider that a fair trial is not possible as the Claimant, despite judgements and directions from the Tribunal, has failed to comply with orders and is behaving

in such a way that the prejudice to the Respondent in having to deal with large amounts of emails, not being copied into correspondence and responding to ever changing claims has not stopped to date and is unlikely to do so on my findings. I find that the Tribunal has already utilised its powers to give directions and to make unless orders, leading to the strike out of one part of the Claimant's case yet still, the Claimant has failed to comply with orders. I find that therefore there is no lesser sanction that the Tribunal can make that would allow the matter to proceed to a fair hearing.

10. The Claimant's claim is therefore struck out in its entirety.

Tribunal Judge Lloyd-Lawrie, acting as  
an Employment Judge  
DATE 17 January 2022

JUDGMENT SENT TO THE PARTIES ON 18 January 2022

FOR THE TRIBUNAL OFFICE Mr N Roche