

EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: S/120332/06

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Held in Glasgow on 12 July 2017

Employment Judge: Laura Doherty

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**Mr Robert Currie
The Executor Of The Late
Mrs Catherine Ratcliffe Currie**

Claimant

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Fife Health Board

Respondents

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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The Judgment of the Employment Tribunal is that the claim is struck out under Rule **37(1)(a)** of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013 (the Rules) on the grounds that it has no reasonable prospects of success.

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REASONS

1. This Preliminary Hearing (“PH”) was fixed to consider the respondents application for strike out of the claim for equal pay brought against the respondents in October 2006. At the point when the claim was presented the claimant was represented by Thompsons, solicitors.
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2. Thompsons withdrew from acting, and Mr Currie as Executor of the Late Mrs Currie, the claimant, indicated to the Tribunal that he wished to continue with the claim on an unrepresented basis. The claim was amended to reflect that it was pursued by Mr Currie as the Executor of his wife’s estate.
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3. The respondents made an application for strike out of the claim on the grounds there was no reasonable prospects of success, and this Preliminary Hearing was fixed to determine the application.
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4. There was no appearance by or on behalf of Mr Currie at the Hearing. There was no reason to explain why he was not in attendance, and the Tribunal proceeded with the Hearing in his absence. In the event that there was any issue which prevented Mr Currie attending the Hearing, of which the Tribunal is not aware, then it would be open to him to apply for a reconsideration of this decision.
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5. Mr McCrory appeared for the respondents, and sought strike out of the claim, on the basis that the information supplied in support of the claim did not disclose a claim which had reasonable prospects of success. Mr McCrory referred to the terms of the ET1, (the claim form) which he submitted were too general to allow identification of a claim of equal pay. No additional information had been supplied.
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6. The Tribunal was satisfied from its consideration of the ET1, that there is no identification of a comparator (i.e. a person of the opposite sex who is said to be carrying out the same job, or doing work of equal value to the claimant's work but is paid more) or contract term in the comparator's contract of employment, which is said to give rise to an inequality in pay.

7. The identification of a comparator and the term in that comparator's contract which gives rise to inequality in pay is fundamental to the success of a complaint of equal pay. This claim was lodged in general terms, as part of a multiple group of claims, and no additional information has been provided on behalf of the claimant.

8. In the circumstances, the Tribunal was satisfied that given the lack of a specified comparator, or the relevant term relied upon in the contract of such a comparators contract of employment, that it could be said the claim had reasonable prospects of success, and is therefore struck out under Rule 37(1)(a) of the Rules.

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Employment Judge: Laura Doherty
Date of Judgment: 25 July 2017
Date sent to parties: 25 July 2017