

EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: S/117578/2006

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Held in Glasgow on 20 July 2017

Employment Judge: Laura Doherty

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Mrs Elizabeth A Allen

Claimant

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Greater Glasgow & Clyde Health Board

Respondent

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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 Tribunals (Constitution & Rules of Procedure) Regulations 2013 (“the Rules”) on the grounds that the claim has no reasonable prospects of success.

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REASONS

- 5 1. This was a Preliminary Hearing (“PH”) convened to consider the respondents` application for strike out of the claim under Rule **37(1)(a)** and **(d)** of the Employment Tribunal Rules.
- 10 2. There was no appearance at the PH by the claimant. The Tribunal was satisfied that Notice of the Hearing had been intimated to the claimant and there was no reason advanced for her non attendance. In the circumstances the Tribunal proceeded with the PH in the claimant`s absence, and considered the respondents` application.
- 15 3. The application is made on the basis that the claim has no reasonable prospects of success. This claim was lodged as part of a multiple in which Thompsons Solicitors were acting. The claimant brought a complaint of equal pay on the basis of equal value, and /or work rated as equivalent under the Equality Act 2010.
- 20 The ET1 lodged by the claimant did not identify comparators, but contained an indication that identification of comparators would follow later, after discovery. There was no identification of a term in the contract of employment of a comparator, upon which the claimant relied in presenting her claim. The ET1 remains unamended. It is the respondent`s position that
25 the ET1 does not disclose the information which is necessary to the success of a complaint of equal pay, and therefore the claim should be dismissed on the grounds that it has no reasonable prospects of success.
- 30 4. It is fundamental to the success of a complaint of equal pay under the Equality Act 2010 that the claimant is able to identify a comparator and is able to identify a term in that comparators contract of employment which is said to give rise to inequality in pay. The ET1 does not disclose either of these matters, and there has been no substantive response to the
35 respondents` application for strike out of the claim, which was intimated in November 2016, to suggest the claimant is in a position to provide the information necessary to proceed with her claim of equal pay. The claimant had written to the Tribunal, in response to a strike out warning letter, advising that she wished to proceed with her claim but has provided no information beyond that.
- 40 5. In terms of Rule **37(1)(d)** of the Tribunal Rules, the Tribunal can strike out a claim where it has no reasonable prospect of success.

6. The Tribunal took into account the terms of the ET1, which are lacking in information essential to the pursuit of an equal pay claim, and the lack of substantive response to the respondent's application for strike out, and in the circumstances was satisfied that it could be said the claim had no reasonable prospects of success, and should be struck out under Rule **37(1)(a)** of the Rules.

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Employment Judge: Laura Doherty

Date of Judgement: 25 July 2017

15 **Date sent to parties: 25 July 2017**