

**EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: S/102416/07**

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**Held in Glasgow on 18 July 2017**

**Employment Judge: Laura Doherty**

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**Mrs Patricia-Anne Balfour**

**Claimant**

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**NHS Greater Glasgow & Clyde**

**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 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

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  
5 **(d)** of the Employment Tribunal Rules.
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  
10 circumstances the Tribunal proceeded with the PH in the claimant`s absence, and considered the respondents` application.
3. The application is made on the basis that the claim has no reasonable prospects of success. This claim was intimated as part of a multiple in  
15 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 in terms of the Equality Act 2010.
4. The ET1 lodged by the claimant did not identify comparators, but contained  
20 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 the ET1 did not disclose information which was necessary to success of a  
25 complaint of equal pay, and therefore the claim should be dismissed.
5. 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  
30 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 respondents` application for strike out of the claim, which was intimated I

November 2016, to suggest the claimant is in a position to provide the information necessary to proceed with her claim of equal pay.

5 6. 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.

7. The Tribunal took into account the terms of the ET1, and the lack of substantive response to the 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 10 **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**