

EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4102106/2017 Telephone Conference Preliminary Hearing at Edinburgh
on 13 October 2017

Employment Judge: M A Macleod

Robert Masterton

Claimant
Represented by
Mr G Mitchell
Solicitor

Reg Vardy Ltd

Respondent
Represented by
Ms J Saffell
Solicitor

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The claim insofar as directed against (1) Pendragon PLC, (2) Reg Vardy Limited trading as "Evans Halshaw Renault Edinburgh West" and (3) Reg Vardy Limited trading as "Evans Halshaw Renault Edinburgh", having been withdrawn by the claimant, is dismissed under Rule 52 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

REASONS AND NOTE

1. A Preliminary Hearing was fixed to take place on 13 October 2017 by way of telephone conference in this case, in which the claimant complains that he was subjected to a series of detriments contrary to section 47B of the Employment Rights Act 1996, and constructively unfairly dismissed by the

respondent contrary to section 103 of the 1996 Act (automatic unfair dismissal) or section 98 of the 1996 Act.

2. The claimant was represented at the PH by Mr Mitchell, and the respondent by Ms Saffell.
- 5 3. The respondent accepts that the claimant has set out fair notice of the claims which he seeks to advance before the Tribunal. Ms Saffell confirmed that there were some relatively minor issues of specification which could be dealt with by way of correspondence between the legal representatives. There were, she said, no preliminary issues, and accordingly both parties
10 are in agreement that it is appropriate to list the case for a hearing on the merits.
4. Mr Mitchell did observe, at this point, that while the respondent accepts, at paragraph 21 of the paper apart to the ET3, that the claimant made a protected disclosure within the meaning of section 43A of the 1996 Act,
15 relating to health and safety, the claimant relies upon more than one such disclosure, and the respondent has not expressly admitted that each of the alleged disclosures amounted to a qualifying disclosure. Ms Saffell confirmed that since each of the alleged disclosures related to the same or similar matters, it is unlikely that the respondent takes issue with the
20 claimant's case on this basis but she would confirm the position in correspondence with the claimant's solicitor.
5. It is agreed that a hearing on the merits will be fixed by way of date listing letters.
6. No order is made in respect of witness statements. Neither party considers
25 this to be a case suitable for the use of witness statements.
7. Orders in respect of the hearing on the merits are set out at the conclusion of this Note.
8. The parties are agreed that the correct respondent in these proceedings is Reg Vardy Ltd as set out in the instance. The claimant is content that the
30 remaining named respondents in the ET1 may be discharged from the

proceedings, and that the claim insofar as directed at them is withdrawn. Having been withdrawn, the claim is dismissed insofar as directed at (1) Pendragon PLC, (2) Reg Vardy Limited trading as "Evans Halshaw Renault Edinburgh West" and (3) Reg Vardy Limited trading as "Evans Halshaw Renault Edinburgh".

9. There being no further matters raised, the PH was concluded.

ORDER OF THE EMPLOYMENT TRIBUNAL

In terms of Rule 29 of Schedule 1 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013, the Employment Judge now issues the following Orders in connection with the above proceedings for the purpose of the Hearing on the Merits to be fixed, namely:*

1. No later than 21 days prior to the commencement of the hearing on the merits to be fixed, the parties shall exchange a draft list of documents listing all documentary productions intended by both parties to be referred to at the Hearing, together with a copy of all documents upon which they intend to rely, and no later than 7 days prior to the commencement of the hearing on the merits shall finalise the joint bundle of documents to be lodged with the Tribunal in time for commencement of the Hearing.

2. A hearing on the merits will be fixed to take place before a full Tribunal comprising Employment Judge and two lay members, and will take place in the Central Office of Employment Tribunals (Scotland) In Glasgow. The hearing shall encompass both merits and remedy.

3. The claimant shall prepare and lodge with the Tribunal, and copy to the respondents, no later than 28 days after the date of this Note a written statement, together with supporting

documentation incorporated within the joint bundle, setting out a quantification of loss, including a breakdown of the heads of claim and the specific sums sought under each head, with details; together with full details of the claimant's attempts to mitigate his losses.

4. No later than 7 days prior to the commencement of the hearing on the merits to be fixed, the parties will present to the Tribunal a Joint List of Issues, together with an Joint Statement of Agreed Facts.

You may make an application under Rule 29 for this Order to be varied, suspended or set aside. Your application should set out the reason why you say that the Order should be varied, suspended or set aside. You must confirm when making the application that you have copied it to the other party(ies) and notified them that they should provide the Tribunal with any objections to the application as soon as possible.

If this order is not complied with, the Tribunal may make an Order under Rule 76(2) for expenses or preparation time against the party in default.

If this order is not complied with, the Tribunal may strike out the whole or part of the claim or response under Rule 37.

Any person who without reasonable excuse fails to comply with this Order shall be liable on summary conviction to a fine of £1,000.00.

Employment Judge: Murdo Macleod
Date of Judgment: 13 October 2017
Entered in register: 20 October 2017
and copied to parties