



EMPLOYMENT TRIBUNALS (SCOTLAND)

5

Case Number: 4111598/2021

Employment Judge M Whitcombe

10

Miss A Wood

Claimant

15

Wescot Credit Services Limited

Respondent

20

25

JUDGMENT

The remaining claims are struck out under rule 37(1)(d) of the ET Rules of Procedure 2013 because they have not been actively pursued by the claimant.

30

REASONS

35

1. The Employment Tribunal became concerned that deadlines in orders for case preparation were not being complied with, such that the prospects of a fair hearing on the allocated dates were prejudiced. On 4 February 2022 the parties were asked for an urgent update. The claimant did not reply at all. The respondent replied the same day highlighting the claimant's failure to comply with orders and the consequential difficulties.

2. Also on 4 February 2022 an “unless order” was issued under rule 38 for the provision by the claimant of certain specified medical evidence on the issue of disability by 11 February 2022, otherwise the claim for disability discrimination would be struck out without further order. The claimant did not supply that information, whether by the deadline or at all, and the disability discrimination claim was therefore struck out by operation of the unless order. The unfair dismissal claim was unaffected at that stage. The claimant was notified of that in correspondence dated 16 February 2022.

3. However, given the claimant’s lack of engagement, the file was referred to Legal Officer Doherty who issued a strike out warning letter on 17 February 2022 on the basis that the residual claims were not being actively pursued either. The original deadline for a reply from the claimant was 1 March 2022, but since that was due to be the first day of the final hearing I varied that deadline to 25 February 2022. The claimant was clearly warned that her entire remaining claim might be struck out on the basis that it had not been actively pursued if she failed to reply to the Tribunal’s correspondence by 25 February 2022.

4. No correspondence was received from the claimant before that deadline, or before the date of this judgment. The respondent made a formal application to strike out in an email dated 25 February 2022 which was copied to the claimant. I therefore make an order striking out the claim on the basis that it has not been actively pursued. That is the order most consistent with the overriding objective. The claimant has ceased engaging with the process, a fair hearing will not be possible without that engagement and costs are being incurred as a result.

Employment Judge: M Whitcombe
Date of Judgment: 28 February 2022
Entered in register: 28 February 2022
and copied to parties