EMPLOYMENT TRIBUNALS (SCOTLAND)

Case no: 4111429/2021

Held by means of the Cloud Video Platform on 17 March 2022

Employment Judge W A Meiklejohn

Mr N Yamakasi	**Claimant** **In person**
Tayside Contracts	**Respondent** **Represented by:** **Ms M Geddes –** **Solicitor**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal is that –

(a) there has been non-compliance by the claimant with an Order of the Tribunal, but the respondent's application that his claims brought under sections 13, 26 and 27 of the Equality Act 2010 should be struck out under Rule 37(1)(c) of the Employment Tribunal Rules of Procedure 2013 (the "Rules") is refused.

(b) An Order will be issued separately under Rule 38 of the Rules to replace the Order with which I found the claimant had failed to comply.

REASONS

1. This case came before me for an open preliminary hearing, conducted remotely be means of the Cloud Video Platform, to deal with an application by the respondent seeking strike out of the claims brought by the claimant. The claimant appeared in person and Ms Geddes represented the respondent. I had a bundle of documents to which I refer below by page number.

Procedural history

2. A preliminary hearing for the purpose of case management took place on 24 November 2021 (before Employment Judge O'Donnell) at which the claims being pursued by the claimant were confirmed to be direct discrimination under section 13 of the Equality Act 2010 ("EqA"), harassment under section 26 EqA and victimisation under section 27 EqA. The protected characteristics relied on by the claimant were sex and race. It was also confirmed that the claimant was not relying on the protected characteristics of religion or belief and disability and his claims of unlawful discrimination on these grounds were withdrawn and were dismissed under Rule 52 of the Employment Tribunal Rules of Procedure 2013 (the "Rules") by Judgment dated 30 November 2021 (56).

3. In his Note (52-55) following this preliminary hearing (at paragraphs 11-14), EJ O'Donnell recognised the need for further specification of the claims and also the time bar point taken by the respondent. While initially taking the view that time bar needed to be addressed first, EJ O'Donnell noted that the claimant was contending that discrimination had continued until his employment ended. After explaining to the claimant the distinction between acts of discrimination which continue over a period of time and one-off acts of discrimination which have ongoing effects in terms of when the time limit starts to run, EJ O'Donnell *"considered that there needed to be some clarification of the position as it not only impacted on the issues to be determined in relation to time bar but also the evidence which might need to be heard."*

4. EJ O'Donnell then made a number of directions. As compliance with these was the issue before me, I refer below to the terms of the directions and the steps taken by the parties towards such compliance.

5. A second preliminary hearing for the purpose of case management took place on 2 February 2022 (before EJ Doherty). At this hearing the respondent argued that the claimant had not complied with EJ O'Donnell's directions and sought a preliminary hearing on strike out for non-compliance under Rule 37(1)(c). The outcome was the fixing of this preliminary hearing.

Provisions of the Rules

6. A number of the provisions contained in the Rules are engaged in this case and I will set these out here. Firstly, there is Rule 2 (**Overriding objective**) which provides as follows –

> *The overriding objective of these Rules is to enable Employment Tribunals to deal with cases fairly and justly. Dealing with a case fairly and justly includes, so far as practicable –*
>
> *(a) ensuring that the parties are on an equal footing;*
>
> *(b) dealing with cases in ways which are proportionate to the complexity and importance of the issues;*
>
> *(c) avoiding unnecessary formality and seeking flexibility in the proceedings;*
>
> *(d) avoiding delay, so far as compatible with proper consideration of the issues, and*
>
> *(e) saving expense.*
>
> *A Tribunal shall seek to give effect to the overriding objective in interpreting, or exercising any power given to it by, these Rules. The parties and their representatives shall assist the Tribunal to further the overriding objective and in particular shall co-operate generally with each other and with the Tribunal.*

7. Rule 6 (**Irregularities and non-compliance**) provides as follows –

A failure to comply with any provision of these Rules (except rule 8(1), 16(1), 23 or 25) or any order of the Tribunal (except for an order under rules 38 or 39) does not of itself render void the proceedings or any step taken in the proceedings. In the case of such non-compliance, the Tribunal may take such action as it considers just, which may include all or any of the following –

(a) waiving or varying the requirement;

(b) striking out the claim or the response, in whole or in part, in accordance with rule 37;

(c) barring or restricting a party's participation in the proceedings;

(d) awarding costs in accordance with rules 74 to 84.

8. Rule 37 (**Striking out**) provides, so far as relevant, as follows –

(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds –

(a) that it is scandalous or vexatious or has no reasonable prospect of success;

(b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;

(c) for non-compliance with any of these Rules or with an order of the Tribunal;

(d) that it has not been actively pursued;

(e) that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim or response (or the part to be struck out).

(2) A claim or response may not be struck out unless the party in question has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing….

Order of the Tribunal

9. Rule 1 (**Interpretation**) of the Rules includes the following –

> *(3) An order or other decision of the Tribunal is either –*
>
> *(a) a "case management order", being an order or decision of any kind in relation to the conduct of the proceedings, not including the determination of any issue which would be the subject of a judgment; or*
>
> *(b) a "judgment", being a decision, made at any stage of the proceedings (but not including a decision under rule 13 or 19), which finally determines –*
>
> *(i) a claim, or any part of a claim, as regards liability, remedy or costs (including preparation time and wasted costs);*
>
> *(ii) any issue which is capable of finally disposing of any claim, or part of a claim, even if it does not necessarily do so (for example, an issue whether a claim should be struck out or a jurisdictional issue);*
>
> *(iii) the imposition of a financial penalty under section 12A of the Employment Tribunals Act.*

10. The relevant paragraph of EJ O'Donnell's Note following the preliminary hearing on 24 November 2021 was in these terms –

> *"15. I, therefore, make the following directions –*
>
> *a. Within **28 days** of the date of the hearing, the claimant will set out each alleged act of discrimination he relies on, when he says each act occurred and, if he says it was a continuing act, the basis on which it is said the act is continuing over a period and when that period ended.*
>
> *b. At the same time, to the extent that the respondent may say the claim is out of time and the claimant may, therefore, seek to have the Tribunal exercise its discretion to hear the claim out of time under s123(1)(b) of the Equality Act, the claimant*

will set out why he says it is just and equitable to hear the claim out of time.

c. *Within **28 days** of the claimant providing the information above, the respondent will set out its position on time bar and the extension of time as so advised."*

11. Given the terms of Rule 1(3), although expressed as "*directions"*, paragraph 15 of EJ O'Donnell's Note constitutes an *"order of the Tribunal"* for the purposes of Rule 37. This is because, although not stated to be an "*order"*, it is a decision of the Tribunal in relation to the conduct of the proceedings which does not itself determine any issue which would be the subject of a judgment.

Responses to order

12. On 22 December 2021 the claimant sent an email to the Tribunal (64) seeking two more weeks to provide his response. The respondent did not object and later on 22 December 2021 the Tribunal emailed the claimant (62-63) to confirm that an extension of two weeks had been granted.

13. On 4 January 2022 the claimant submitted his first response (57). In this the claimant –

(a) Did not set out each alleged act of discrimination.

(b) Asserted that the respondent *"always act in an aiding and inducing capacity which is against the provision of s112(1) of the Equality Act".*

(c) Quoted from the decision of the Court of Appeal in ***Stockton on Tees Borough Council v Aylott 2010 ICR 1278***.

(d) Referred to the *"last claim of discrimination"* being a stress risk assessment meeting at a meeting on 22 April 2021.

(e) Urged the Tribunal *"that it will be just and equitable to administer all measures that will not pervert the interest of justice as justice for one is justice for all".*

14. The respondent submitted its response on 11 January 2022 (58). In this the respondent made the following points –

(a) The claimant had failed to set out each alleged act of discrimination he relied on.

(b) The alleged last act of discrimination was not referred to in the claimant's ET1 claim form was not a continuing act and was out of time.

(c) The claimant had failed to set out why he believed it was just and equitable for the Tribunal to hear his claim out of time.

(d) The respondent sought a preliminary hearing on strike out.

15. On 31 January 2022 the claimant emailed the Tribunal (59) stating –

"*I have attached my response, that was prepared by a lawyer."*

16. With this email the claimant submitted his second response (67-68). This document was headed "*A case for continuous discrimination and lack of being fairly heard".* Within his second response the claimant made these points (in brief summary) –

(a) The claimant had not been given the platform to contest the allegations against him.

(b) He should have been given more time to reply and bring his own counter evidence. The matter was pre-determined against him.

(c) Allegations of discriminatory acts against him were not fully investigated.

(d) Allegations by the claimant of discriminatory acts were not investigated.

(e) The evidence gathered was biased and unfounded. The claimant again referred to section 112(1) EqA and the decision in ***Aylott***.

(f) The claimant's side of the issue should have been fairly considered.

17. The claimant told me that his second response had been prepared by a lawyer. He described the lawyer as a friend and said that she did not specialise in employment law.

Submissions by Ms Geddes

18. Ms Geddes referred to the timeline (1). She reminded me that the last act complained of by the claimant in his ET1 was his suspension on 6 February 2020. He did not initiate ACAS Early Conciliation ("EC") until 30 June 2021. His EC certificate was issued on 11 August 2021. His ET1 was submitted on 23 September 2021. The ET3 was lodged on 1 November 2021. The claimant had provided his preliminary hearing agenda on 10 November 2021. The respondent had provided its agenda on 17 November 2021. The issues of time bar and strike out had been raised in both the ET3 and the respondent's agenda.

19. The time bar issue had been recognised by EJ O'Donnell at the first preliminary hearing. He needed further information to deal with this. He took time to explain matters to the claimant and the claimant said at the time that he understood what was required. The claimant was given time to seek legal advice.

20. Ms Geddes submitted that the claimant's first response should have set out each act of alleged discrimination, when it occurred and whether it was said to be a continuing act. It did not do so. The claimant's reference to the ***Aylott*** case did not answer the Tribunal's order. The claimant advanced a new claim in his first response but (a) provided no reason as to why this was not presented in time and (b) made no application to amend. There was no reference to why it might be just and equitable to extend time. No grounds were put forward by the claimant as to why the Tribunal should exercise its discretion to extend time.

21. Ms Geddes invited me to make a finding that the first response was a failure to comply with an order of the Tribunal for the purposes of Rule 6.

22. Turning to the claimant's second response, Ms Geddes submitted that this again failed to answer the Tribunal's order. It referred to the new alleged last act in April 2021. It also referred to ***Aylott***. It was unclear whether it was intended to supersede the claimant's first response. In any event, the claim was out of time in relation to all the alleged acts of discrimination.

23. Ms Geddes said the claimant had now had a number of opportunities to set out the basis of his claim – in his ET1, in his agenda, at the first preliminary hearing, when he sought the extension of time, when he submitted his first response and when he submitted his second response. She acknowledged that strike out was a draconian step, particularly in a discrimination case. However, she argued, the claimant had had ample time to take legal advice and respond.

24. Ms Geddes submitted that the Tribunal's options were as set out in sub-paragraphs (a) to (d) of Rule 6. In terms of whether I should waive or vary the order, Ms Geddes argued that there had been a good reason for the order being made. It was to establish if the claims were brought in time.

25. Ms Geddes referred to ***Sridhar v Kingston Hospital NHS Foundation Trust [2020] 7 WLUK 613***. She highlighted the four routes by which a discrimination claim could be brought in time in terms of section 123 EqA – (1) the act complained of had taken place within the primary three month limitation limit, (2) the act had taken place over a period which concluded within that limitation period, (3) it was one of a number of apparently separate acts which together amounted to a continuing act which extended into the limitation period, (4) it was just and equitable for the claim to proceed.

26. In the present case, Ms Geddes submitted, there had been no act done within three months of presentation of the claim. The claimant was alleging both sex and race discrimination. His complaints were about both male and female employees of the respondent. There was no allegation of a continuing state of affairs. There was a reference to section 112 EqA but this was vague and was not called for by the Tribunal's order.

27. In relation to the "*just and equitable"* route, Ms Geddes argued that the claimant's responses did not suggest that the Tribunal's discretion should be exercised. She contrasted the present case with ***Chief Constable of Lincolnshire Police v Caston [2009] EWCA Civ 1298*** where the claimant had given her solicitors a confused and misleading chronology because of her mental condition at the time and this was regarded as an exceptional circumstance making it just and equitable to extend time.

28. Ms Geddes highlighted a passage at paragraph 24 in ***Caston*** where the Court of Appeal (per Wall LJ) referred to a quotation taken by counsel for the appellant (the Chief Constable) from the judgment of Auld LJ in ***Robertson v Bexley Community Centre trading as Leisure Link 2003 IRLR 434*** –

> "*It is also of importance to note that time limits are exercised strictly in employment and industrial cases. When tribunals consider their discretion to consider a claim out of time on just and equitable grounds there is no presumption that they should do so unless they can justify failure to exercise the discretion. Quite the reverse, a tribunal cannot hear a complaint unless the applicant convinces it that it is just and equitable to extend time so the exercise of discretion is the exception rather than the rule."*

29. Ms Geddes argued that in the present case there was no basis upon which to allow a claim which was clearly out of time, and accordingly no basis to waive or vary the requirement to comply with EJ O'Donnell's order in terms of Rule 6(a). Ms Geddes submitted that Rule 6(c) and (d) were not engaged in this case, so that left only Rule 6(b), ie strike out under Rule 37.

30. Finally, Ms Geddes referred to ***Governing Body of St Albans Girls' School and another v Neary 2010 IRLR 124***, highlighting the following passages from the case summary –

> "*There is a duty on the judge to decide the case rationally and not capriciously, and to make his decision in accordance with the purpose of the relevant legislation, taking all relevant factors or circumstances into account. He must avoid taking irrelevant factors into account. Provided the judge had met those requirements, his judgment should not be impugned because the appellate court would or might have reached a different conclusion."*

> *"The judge must make clear the facts that he has regarded as relevant. He must say enough for this decision to be understood by a person who knows the background. In a case where the draconian sanction of strike-out has been imposed, it will be necessary for the judge to demonstrate that he has weighed the factors affecting proportionality*

and reached a tenable decision about it. That does not mean that he must use any particular form of words. But it must be possible to see that the judge has asked himself whether in the circumstances the sanction had been just."

Submissions by the claimant

31. The claimant said that he had complied with EJ O'Donnell's order to the best of his ability. He referred to his being on medication which caused him *"to lapse and not engage with issues".* He had difficulty remembering things.

32. The claimant referred to paragraphs 1-15 of the paper apart to his ET1 claim form where, he asserted, he had stated the acts of discrimination.

33. The claimant said that he had shown EJ O'Donnell's direction to the lawyer who had helped him with his second response. She had advised him to respond in those terms. He confirmed that this was the best response he could make.

34. The claimant confirmed that he understood that he had been asked to say when discrimination had occurred and why he believed it was discriminatory. He believed that he had met that requirement, that he had highlighted what the discrimination was and why it was discriminatory. I asked him to show me where, within his second response, he had done so. The claimant replied in these terms –

"*Most of the evidence gathered by the investigators was one-sided."*

"Behaviour towards me was racist."

"I was not allowed to voice my opinion, based on race and ethnicity."

"I was prevented from answering anything at the formal disciplinary hearing."

35. The claimant confirmed that the disciplinary hearing to which he was referring was the one which took place in June/July 2018. He accepted that he had gone to ACAS previously but had not raised proceedings. This had been due to his mental health. His mental health issues were continuing.

The claimant said that if his claim was struck out, he would continue to take the matter further.

Further dialogue

36. Ms Geddes argued that the onus was on the claimant to show that there had been a continuing act. He had not shown that it would be just and equitable to extend time. It was not in the Tribunal's power to do so. Ms Geddes said she had anticipated that the claimant would argue with reference to disability and/or religion and belief but he had not put these forward as reasons for non-compliance.

37. Ms Geddes did not accept that the claimant had put forward his mental health as a reason for his non-compliance with EJ O'Donnell's directions. He had the benefit of legal advice but had not made out an argument as to why discretion should be exercised in his favour. He had not shown any reason why his claim was not lodged in time.

38. The claimant said that he had referred to matters in 2018 because they remained outstanding up to the time he was dismissed. His mental health issues had been documented (by Occupational Health). Stress and anger prevented him from dealing with some issues. This was why he had been unable to answer fully. The claimant then told me that he was not saying that his mental health had prevented him from answering the Employment Judge's directions, but that he had a mental block. He had needed help to write his second response. It was in the interests of justice that his case should be heard.

Discussion

39. I started my deliberations by reminding myself that the issue I had to decide was whether the claimant's claim should be struck out under Rule 37(1)(c). The issue was not whether it was just and equitable to extend time to allow the claimant's claims of direct discrimination, harassment and victimisation to proceed.

40. Having said that, the context in which EJ O'Donnell had given his directions was the need to get from the claimant sufficient information about his complaints to allow the Tribunal to deal with the preliminary issue of time

bar raised by the respondent. EJ O'Donnell's directions clearly required the claimant to –

- set out each alleged act of discrimination
- state when each alleged discriminatory act occurred
- state the basis on which any alleged continuing act was said to continue over a period
- state when that period ended

41. Before considering the claimant's compliance, or non-compliance, with these directions, I reminded myself of the case law in this area. The Employment Appeal Tribunal has held that there is a two-stage process to be applied when a Tribunal considers an application for strike out – ***HM Prison Service v Dolby 2003 IRLR 694*** and ***Hassan v Tesco Stores Ltd UKEAT/0098/16***. The first stage involves a determination as to whether one (or more) of the five grounds for strike out specified in Rule 37(1) has been established. If it has, the second stage requires the Tribunal to decide as a matter of discretion whether to strike out the claim.

42. There is ample authority for the proposition that discrimination cases should not be struck out unless there are clear circumstances which justify that. In ***Anyanwu v South Bank Students Union 2001 IRLR 305*** (a race discrimination case) Lord Steyn said this (at paragraph 24) –

> "*For my part such vagaries in discrimination jurisprudence underline the importance of not striking out such claims as an abuse of the process except in the most obvious and plainest cases. Discrimination cases are generally fact-sensitive, and their proper determination is always vital in our pluralistic society. In this field perhaps more than any other the bias in favour of a claim being examined on the merits or demerits of its particular facts is a matter of high public interest.*"

43. Lord Hope of Craighead said this (at paragraph 37) –

> "*….discrimination issues of the kind which have been raised in this case should as a general rule be decided only after hearing the evidence. The questions of law that have to be determined are often*

highly fact-sensitive. The risk of injustice is minimised if the answers to these questions are deferred until all the facts are out. The tribunal can then base its decision on its findings in fact rather than on assumptions as to what the claimant may be able to establish if given an opportunity to lead evidence."

44. In ***Tayside Public Transport Ltd (trading as Travel Dundee) v Reilly 2012 IRLR 755*** the following summary was given at paragraph 30 –

"*Counsel are agreed that the power conferred by rule 18(7)(b) may be exercised only in rare circumstances. It has been described as draconian (**Balls v Downham Market High School and College 2011 IRLR 217**, **para 4 (EAT)**). In almost every case the decision in an unfair dismissal claim is fact-sensitive. Therefore where the central facts are in dispute, a claim should be struck out only in the most exceptional circumstances. Where there is a serious dispute on the crucial facts, it is not for the Tribunal to conduct an impromptu trial of the facts (**ED&F Man Liquid Products Ltd v Patel [2003] CP Rep 51, Potter LJ, at para 10**). There may be cases where it is instantly demonstrable that the central facts in the claim are untrue; for example, where the alleged facts are conclusively disproved by the productions (**ED&F Man Liquid Products; Ezsias v North Glamorgan NHS Trust 2007 IRLR 603**). But in the normal case where there is a "crucial core of disputed facts", it is an error of law for the Tribunal to pre-empt the determination of a full hearing by striking out (**Ezsias, Maurice Kay LJ, at para 29**)."*

45. In ***Ukegheson v Haringey London Borough Council 2015 ICR 1285*** it was clarified that there are no formal categories where striking out is not permitted at all. It is therefore competent to strike out a case such as this one (although in ***Ukegheson*** the Tribunal's decision to strike out was reversed on appeal). That it is competent to strike out a discrimination claim was made clear in ***Ahir v British Airways plc [2017] EWCA Civ 1392*** where Elias LJ said this –

"*Employment Tribunals should not be deterred from striking out claims, including discrimination claims, which involve a dispute of fact*

if they are satisfied that there is indeed no reasonable prospect of the facts necessary to liability being established, and also provided they are keenly aware of the danger of reaching such a conclusion in circumstances where the full evidence has not been heard and explored, perhaps particularly in a discrimination context."

46. In ***Mechkarov v Citi Bank NA 2016 ICR 1121*** the Employment Appeal Tribunal summarised the law as follows –

"*….(a) only in the clearest case should a discrimination claim be struck out; (b) where there were core issues of fact that turned on oral evidence, they should not be decided without hearing oral evidence; (c) the claimant's case must ordinarily be taken at its highest; (d) if the claimant's case was "conclusively disproved by" or was "totally and inexplicably inconsistent" with undisputed contemporaneous documents, it could be struck out; (e) a Tribunal should not conduct an impromptu mini-trial of oral evidence to resolve core disputed facts."*

47. I pause to observe that Rule 18(7)(b) referred to in ***Reilly*** is found in Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) 2004. It is the predecessor of Rule 37(1)(a) in the 2013 Rules (see paragraph 8 above).

48. In the present case I was satisfied that the claimant had failed to comply with EJ O'Donnell's directions. That meant that the ground for strike out in Rule 37(1)(c) was made out. Accordingly I had to exercise my discretion as to whether or not the claims should be struck out.

49. In favour of strike out I noted that EJ O'Donnell's directions had been clearly expressed. The claimant had been given adequate time within which to comply. He had made two attempts at compliance, the second with the benefit of legal advice. In neither of these attempts had the claimant come close to providing the required information. What the claimant had been directed to provide was not complicated – see paragraph 40 above. There could be little confidence that the claimant would comply if given another chance to do so.

50. Against strike out I took account of the various authorities quoted above which counselled against striking out a discrimination claim other than in exceptional circumstances. I reminded myself that I should approach matters by taking the claimant's claim at its highest, which meant I should assume that the claimant could make out what he asserted in his ET1. Where there were central facts in dispute, there was a risk of injustice if the claim was struck out before evidence was heard and a determination made about those disputed facts.

51. I decided that the considerations against strike out outweighed those in favour of it. There were central facts in dispute and I was not convinced that there were exceptional circumstances (per ***Reilly***) such as to justify striking out the claim. In ***Ahir*** the danger of reaching a conclusion that there was no reasonable prospect of the facts necessary to establish liability being made out, without the full evidence being heard, was recognised.

52. I did not agree with Ms Geddes that my options in dealing with the application for strike out were as set out in Rule 6, for two reasons –

    (a) Rule 6 is permissive, not restrictive. It provides that in a case of non-compliance with the Rules the Tribunal *"may take such action as it considers just"*. That may include the actions listed at paragraphs (a) to (d) of the Rule. However, in considering what is just, the Tribunal is not limited to these options.

    (b) It is clear from ***Dolby*** and ***Hassan*** that the Tribunal should take a two stage approach, the second stage being the exercise of discretion whether or not to strike out under Rule 37. There is no suggestion in these cases that the Tribunal can only proceed in terms of Rule 6.

53. There had been good reason for EJ O'Donnell issuing his directions. The need for the claimant to provide the information sought remained. While I was not willing to strike out the claim, I decided that the appropriate course was to issue an Order in similar terms to EJ O'Donnell's directions, but to do so under Rule 38 (**Unless orders)**.

54. Rule 38 provides, so far as relevant, as follows –

"*(1) An order may specify that if it is not complied with by the date specified the claim or response, or part of it, shall be dismissed without further notice. If a claim or response, or part of it, is dismissed on this basis the Tribunal shall give written notice to the parties confirming what has occurred.*

(2) A party whose claim or response has been dismissed, in whole or in part, as a result of such an order may apply to the Tribunal in writing, within 14 days of the date that the notice was sent, to have the order set aside on the basis that it is in the interests of justice to do so. Unless the application includes a request for a hearing, the Tribunal may determine it on the basis of written representations….

55. This means that if the claimant does not comply with my Order, his claims will be dismissed (unless he makes a successful application to have Order set aside). The claimant should regard this as his last chance to provide the information which is required. The Order will be issued separately from this Judgment.

Employment Judge: **W A Meiklejohn**
Date of Judgment: **30 March 2022**
Date sent to parties: **30 March 2022**