



EMPLOYMENT TRIBUNALS

Claimant: Ms Bazghar Anwar

Respondent: Boots Management Services Ltd

RECORD OF A PRELIMINARY HEARING

Heard at: Leeds (in private by video link)

On: 10 June 2022

Before: Employment Judge R S Drake

Appearances

For the Claimant: In Person

For the Respondent: Ms C Clapham (Solicitor)

JUDGMENT

- 1 The Claimant's claim (in case number 2601526/2021) of automatically unfair dismissal is by consent struck out in accordance with Rule 37(1) paragraphs (a) to (e) inclusive in Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ("the Rules"), on the grounds that the claim has no reasonable prospect of success, and the Claimant has not sufficiently complied with Case Management Orders by EJ Knowles 21 December 2021.
- 2 The Respondent's counterclaim (in case number 1806578/2021) is also struck out as it has no prospect of success.

Reasons

- (1) The Claimant recognises that her primary complaint of constructive unfair dismissal claim is inconsistent with her original claim that she had been dismissed unfairly because of allegedly making a public interest disclosure for the purposes of section 103A of the Employment Rights Act 1996 as amended ("ERA") and that she sought to pursue her claims in respect of detriment caused by making such disclosure which was best pursued under Section 47B ERA .
- (2) The Respondent's counterclaim was expressed in the erroneous belief that the Claimant was pursuing a claim (inter alia) of breach of contract pure and simple

which I concluded was incorrect. I found that the Claimant's claims were purely for constructive unfair dismissal, detriment (failing to deal with her grievances as distinct from dismissal) as a result of making a public interest disclosure, breach of the Working Time Regs and failure to provide or pay holiday entitlement in full. The case had not been perceived by the Tribunal on initial case sift as being a claim of breach of contract and had not been coded as such, though this is not definitive. On examination of the pleadings I found that the Respondents were indeed mistaken and I note that when this was discussed today, they did not resist the proposal for this part of their defence being struck out which therefore disposes of action number 1806578/2021

(3) For the sake of completeness, I set out below the basis upon which I had to consider the position so far as set out in relevant parts of Rule 37: -

(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 ... has no reasonable prospect of success;
 - (b) ... ;
 - (c) for noncompliance with any of these Rules or with an order of the tribunal;
 - (d) ... ;
 - (e) ...
- (my emphases)

Employment Judge R S Drake

Signed 10 June 2021

Sent to the parties on:

17 June 2022