



EMPLOYMENT TRIBUNALS

Claimant: Mrs A Bradford

Respondent: Ocado Central Services Ltd

JUDGMENT

The Respondent's application to strike out the claim is refused.

REASONS

1. At this hearing, Ms Step-Marsden, on behalf of the Respondent applied to strike out the claim. This was on the basis that there had been noncompliance with an order of the Tribunal, engaging Rule 37(1)(c).
2. The Respondent relies on the Claimant's failure to comply with the Tribunal's order of 8th March 2022. The Tribunal had ordered the Respondent to formulate a request for further and better particulars in order to clarify the Claimant's claim. The Claimant was required to provide answers to this request by 1st May 2022, which she did not. This requirement was reiterated by the Tribunal in correspondence of 31st May 2022.
3. I have concluded that there has been a failure to comply with the Tribunal's orders. To date, no further and better particulars have been received from the Claimant, although they have been ordered.
4. Nonetheless, it would not be appropriate to strike out the claim for this reason. I have born in mind the guidance in *Abegaze v Shrewsbury College of Arts & Technology* [2010] IRLR 236. I must consider not only whether there has been default, but also whether, as a result of that behaviour, there cannot be a fair trial and whether strike out is a proportionate sanction. Striking out a claim is one of the most draconian powers a Tribunal can exercise, since

it brings the claim to an end and prevents a Claimant's case being determined on its merits.

5. I am confident that a fair trial of this matter remains possible. The delay caused by the Claimant's default is relatively short. The failure to comply with

6.2 Strike out Judgment – claim - rule 37

Case No: 2302247/2021

the Tribunal's direction is regrettable, but it is not so severe or prolonged as to make strike out a proportionate sanction.

6. I have indicated to the parties that, although I have reached this decision today, any future application to strike out on the basis of non-compliance will be considered in light of the history of the claim, including this decision. I have emphasised to both parties, but particularly to Mrs Bradford, that it is important to comply with Tribunal directions and for the parties to cooperate in the preparation of the case for hearing. While it may be stressful or difficult to deal with the other side of litigation, which can inevitably become emotionally charged, it is also necessary.

Employment Judge Reed
30th June 2022

6.2 Strike out Judgment – claim - rule 37