



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4101070/2022

Held in chambers in Glasgow on 28 July 2022

Employment Judge Ian McPherson

Mr Richard Fraser

Claimant

Ashgrove Home Improvements Limited

Respondents

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The claim is struck out under rule 37 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 on the grounds that the claim has not been actively pursued by the claimant in terms of rule 37(1)(d), and, being a separate ground for strike out in terms of rule 37(1) (c), on the basis that the claimant has not complied with orders of the Tribunal.

REASONS

1. The claimant brought proceedings against the respondents by ET1 claim form presented on 15 February 2022. He complained of unfair dismissal, sought a redundancy payment, and claimed that he was owed other payments.

2. An ET3 response was presented on behalf of the respondents, on 4 March 2022, defending the claim, and the case proceeded to a telephone conference call Case Management Preliminary Hearing on 3 May 2022 before Employment Judge McFatrige. The claimant attended in person, and the respondents were represented.
3. Judge McFatrige's written Note & case management orders dated 3 May 2022 were issued to both parties on 4 May 2022. The claimant clarified that he was only seeking compensation for unfair dismissal, which the respondents submitted was a fair dismissal for gross misconduct.
4. The respondents sought strike out of the claim, which failing a deposit order, but Judge McFatrige was not prepared to make such an order, and it was agreed to fix a 2 day Final Hearing in person to be heard on 24 and 25 August 2022. Standard orders were issued for documents, and details of financial loss, the latter to be provided within 14 days.
5. The claimant failed to comply with those standard orders within the 14 days allowed. On 23 May 2022, the respondents applied for strike out of the claim.
6. By letter from the Tribunal, dated 27 May 2022, parties were advised that I had refused the respondents' application, and given the claimant a fresh period of 14 days to comply with Judge McFatrige's orders.
7. The claimant again failed to comply with those standard orders within the 14 days allowed. On 14 June 2022, the respondents wrote to the Tribunal, advising that the claimant had failed to comply with the Tribunal's orders, and again requesting strike out of the claim.
8. On 16 June 2022, on my instructions, the Tribunal gave the claimant an opportunity to give written reasons or to request a Hearing in order to consider why the claim should not be struck out on the grounds of non-compliance with judicial direction and orders set forth by Judge McFatrige on 3 May 2022, and myself on 27 May 2022, as per the Tribunal's correspondence of that date to the claimant. He was given until 30 June 2022 to reply.

9. Again, the claimant failed to do so, despite the reminder given on 4 July 2022, when the Tribunal gave the claimant a further opportunity to give written reasons by 25 July 2022, when I was due to return from annual leave. He has repeatedly failed to reply, or to request a Hearing in order to consider why the claim should not be struck out.
10. Despite these many opportunities afforded to the claimant by the Tribunal, he has failed to give any acceptable reason why such a judgment should not now be made or to request a Hearing.
11. The Tribunal therefore strikes out the claim, on the grounds that the claim has not been actively pursued by the claimant in terms of rule 37(1)(d), and, being a separate ground for strike out in terms of rule 37(1) (c), on the basis that the claimant has not complied with an order of the Tribunal.
12. In these circumstances, his claim is now at an end, and the Final Hearing listed for 24 and 25 August 2022 is cancelled.

Employment Judge: G Ian McPherson
Date of Judgment: 28 July 2022
Entered in register: 29 July 2022
and copied to parties