



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr F. Otsumah

**Respondents:** ABM Facility Services UK Ltd

## PRELIMINARY HEARING (OPEN)

**Heard at:** London South by CVP

**On:** 20<sup>th</sup> April 2022

**Before:** Employment Judge L. Clarke

### Appearances

For the Claimant: Mr V Chikwe (solicitor)

For the Respondent: Mr A O'Neill (solicitor)

## JUDGMENT

It is the judgment of the Tribunal that:-

- (1) The Respondent's application to strike out the Claimant's claims against it is dismissed. The Tribunal is not satisfied that either the claim for constructive unfair dismissal or the claim for unlawful deduction from wages against the Respondent has no reasonable prospect of success.
- (2) The claim of unlawful deduction from wages against the Respondent has little reasonable prospect of success. The claim is that the Respondent did not pay the Claimant for a period when he was not attending work although he was himself fit and well to do so as he was shielding at home during the Covid Pandemic in order to protect his 2 extremely clinically vulnerable children. The claimant was not himself vulnerable. The Claimant is ORDERED to pay a deposit of £100 no later than 1<sup>st</sup> September 2022 as a condition of being permitted to

continue to advance this claim. The Tribunal has had regard to the information available as to the Claimant's ability to comply with the Order in determining the amount of the deposit.

A separate Case Management Order sets out the steps that the parties are required to take to prepare this matter for a final hearing.

The reasons for this decision were given orally at the hearing. Written reasons will not be provided unless they are asked for by a written request presented by any party within 14 days of this written judgment being sent to the parties.

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Employment Judge L Clarke  
Date: 22<sup>nd</sup> April 2022

**NOTE ACCOMPANYING DEPOSIT ORDER**  
**Employment Tribunals Rules of Procedure 2013**

1. The Tribunal has made an order (a “deposit order”) requiring a party to pay a deposit as a condition of being permitted to continue to advance the allegations or arguments specified in the order.
2. If that party persists in advancing that/those allegation(s) or argument(s), a Tribunal may make an award of costs or preparation time against that party. That party could then lose their deposit.

**What happens if you do not pay the deposit?**

3. If the deposit is not paid the allegation(s) or argument(s) to which the order relates will be struck out on the date specified in the order.

**When to pay the deposit?**

4. The party against whom the deposit order has been made must pay the deposit by the date specified in the order.
5. If the deposit is not paid within that time, the allegation(s) or argument(s) to which the order relates will be struck out.

**What happens to the deposit?**

6. If the Tribunal later decides the specific allegation(s) or argument(s) against the party which paid the deposit for substantially the reasons given in the deposit order, that party shall be treated as having acted unreasonably, unless the contrary is shown, and the deposit shall be paid to the other party (or, if there is more than one, to such party or parties as the Tribunal orders). If a costs or preparation time order is made against the party which paid the deposit, the deposit will go towards the payment of that order. Otherwise, the deposit will be refunded.

**How to pay the deposit?**

7. Payment of the deposit must be made by cheque or postal order only, made payable to HMCTS. Payments CANNOT be made in cash.
8. Payment should be accompanied by the tear-off slip below or should identify the Case Number and the name of the party paying the deposit.
9. Payment must be made to the address on the tear-off slip below.
10. An acknowledgment of payment will not be issued, unless requested.

**Enquiries**

11. Enquiries relating to the case should be made to the Tribunal office dealing with the case.
12. Enquiries relating to the deposit should be referred to the address on the tear-off slip below or by telephone on 0117 916 5015. The PHR Administration Team will only discuss the deposit with the party that has been ordered to pay the deposit. If you are not the party that has been ordered to pay the deposit you will need to contact the Tribunal office dealing with the case.



**DEPOSIT ORDER**

**To:           HMCTS Finance Centre  
              The Law Library  
              Law Courts  
              Small Street  
              Bristol  
              BS1 1DA**

Case Number       \_\_\_\_\_

Name of party       \_\_\_\_\_

I enclose a cheque/postal order (*delete as appropriate*) for £\_\_\_\_\_

**Please write the Case Number on the back of the cheque or postal order**