



EMPLOYMENT TRIBUNALS

Claimant: Mr Thomas Manley
Respondent: Secretary of State for Justice

PRELIMINARY HEARING

Heard at: Nottingham (in public) **On:** 21 July 2022
Before: Employment Judge Camp

Appearances

For the claimant: in person
For the respondent: Mr P Keith, counsel

JUDGMENT & DEPOSIT ORDER

1. The claimant's complaint of unfair dismissal fails because it was presented outside of the relevant time limits.
2. The claimant was not a disabled person in accordance with the Equality Act 2010 ("EQA") between January and April 2020 because of stress. His three complaints of disability discrimination dating from then therefore fail.
3. The claimant's remaining complaints are:
 - a. a complaint of direct disability discrimination, alternatively discrimination under EQA section 15 ("section 15 discrimination"), in relation to an alleged refusal to accept a grievance from him and/or attempt to dissuade him from pursuing a grievance on or around 28 October 2020;
 - b. a complaint of direct disability discrimination, alternatively section 15 discrimination, by dismissal.
4. The Tribunal is not satisfied that any of the remaining complaints have no reasonable prospects of success. They are therefore not struck out pursuant to rule 37(1)(a).
5. Of the remaining complaints, one has little reasonable prospects of success: the complaint of section 15 discrimination by dismissal.

6. The main reasons it appears to have little reasonable prospects of success are:
 - a. for most of the hearing, this complaint was being put forward on the basis that the relevant “something” allegedly arising in consequence of disability was the claimant’s alleged misconduct for which he was dismissed. However: the claimant denied any misconduct; the claimant was unwilling or unable to explain what specific conduct he both admitted and believed caused his dismissal. In those circumstances, it was very difficult to see how he would prove that particular conduct both arose in consequence of disability and caused his dismissal;
 - b. towards the end of the hearing, the claimant came up with an entirely new basis for this complaint, namely a “something” consisting of him entering into the conversation on or about 30 October 2021 that led to the allegations of misconduct that in turn led to his dismissal. To succeed in a complaint made on that basis, he would have to prove that a significant part of the reason for him entering into the conversation (rather than, for example, simply ignoring the individuals with whom he had the conversation) was his disability of depression and/or his alleged disabilities of stress and anxiety. When trying to do so at a future final hearing, he would almost certainly not be able to rely on any evidence of substance; all he would have would be his own bare assertions that this was indeed a significant part of the reason for him doing that. His own bare assertions would in all likelihood not be enough, particularly given that, seemingly, the first time he made those assertions was at the present preliminary hearing, well over a year after dismissal and approaching two years from the incident in question;
 - c. in summary, the claimant has at best little reasonable prospects of succeeding on the question of whether something that arose in consequence of his disability was a cause of his dismissal.
7. The claimant is ORDERED to pay a deposit of **£400** on or before **1 September 2022** as a condition of being permitted to continue to advance the complaint of section 15 discrimination by dismissal.
8. The Tribunal has had regard to all information provided by the claimant about his ability to pay the deposit when deciding on the amount of the deposit.
9. The claimant must email the Tribunal and the respondent by **12 noon on 2 September 2022** confirming whether or not he paid the deposit by the 1 September 2022 deadline.
10. Full reasons for the above judgment and deposit order were given orally at the hearing. Written reasons will not be provided unless asked for by a written request presented within 14 days of the sending of this written record of those decisions.
11. Case management orders have been made and are set out separately.

EMPLOYMENT JUDGE CAMP
27 July 2022

SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

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 complaint or response, 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 complaint or response 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 complaint or response to which the order relates will be struck out.

What happens to the deposit?

6. If the Tribunal later decides the specific allegation or argument 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 976 3096. 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.

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DEPOSIT ORDER

**To: HMCTS Finance Support Centre
Temple Quay House
2 The Square
Bristol
BS1 6DG**

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