



EMPLOYMENT TRIBUNALS

Claimant: Mr R Green

Respondent: Govia Thameslink Railway Ltd

Heard at: London South via CVP **On: 12 December 2022**

Before: Employment Judge Khalil (sitting alone)

Appearances

For the claimant: in person

For the respondent: Mr Sanders, Counsel

JUDGMENT STRIKING OUT THE CLAIMS UNDER RULE 37

The claims are struck out under Rule 37 (1) (a) as the claims have no reasonable prospects of success.

Reasons

1. On 17 November 2022, the Tribunal issued a strike out warning following a case management Hearing on the same day. This warning was as follows:

On the Tribunal's own initiative and having considered representations made by the parties, the Tribunal is considering striking out the claims because:

- In the light of the claimant's correspondence to the Tribunal since the last Hearing and having regard to the matters discussed at the last Hearing, the claims in the Employment Tribunal have no reasonable prospect of success as the claimant has said repetitively, he wishes and intends to pursue an alleged cause of action or resolution in a different forum or jurisdiction, including today. The claimant referred today for the need for an investigation by the M15, the Serious Fraud Office or the British Transport Police before any claim in any jurisdiction could proceed. In addition, that there have been serious data protection breaches which need to be investigated. The claimant today asserted that both he and the respondent had been victims of his medical records being

compromised which he relies upon in support of his unfair dismissal and discrimination claims.

- Alternatively, the manner in which the proceedings have been conducted is unreasonable.
- Alternatively, the claimant has not complied with the Tribunal's Order of 7 October 2021 requiring the claimant to state clearly and unambiguously whether or not he wished to continue his claims in the Employment Tribunal.
- Alternatively, the claims in the Employment Tribunal are not being actively pursued. The case is no further forward in this jurisdiction almost 1 year from the last Hearing, in fact the claimant has been attempting to explore avenues of redress in other forums or jurisdictions.

In arriving at this warning today, the Tribunal has had regard to the following chronology since the Hearing on 7 October 2021. Page references are to the Bundle sent to the Tribunal in advance of today's Hearing.

The claimant has corresponded as follows since the last Hearing:

- 19 October 21 20:10 to ET and the respondent:
- *I am looking to resolve [this case] with a criminal investigation/prosecution...it would also be to prevent further victims of corporate fraud...at present I am still trying to understand whether I am dealing with an act of bioterrorism. This is an M15 matter.*

(Pages 10-11)

- 29 October 21 14.50 to the respondent and the ET:
- *This case cannot be dealt with in normal judicial procedures.*

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- 29 October 21 18:53 to the respondent and the ET:
- *I am seeking a criminal investigation/prosecution.*

(Page 7)

- 9 November 2021 to the ET and the respondent:
- *A four-day hearing in this jurisdiction is not what I intended in these circumstances, this case is unresolved.*

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- 30 November 2021 15.18 to the respondent and the ET:

- *I am seeking an investigation by the M15.*

(Page 17)

- 30 November 2021 18.45 to the respondent and the ET:

- *I intended to resolve this case in another jurisdiction. This is something for the M15.*

(Page 16)

- 16 February 2022 to the respondent and the ET:

- *This is incredibly complex white-collar crime. I would have preferred a situation where all the matters in this case are addressed ... in a different jurisdiction*

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- 31 March 2022 13.44 to the ET and the respondent:

- *A thorough investigation required by M15.*

(Page 32)

- 31 March 14.55 to the respondent and the ET:

- *This a corporate fraud and corruption case as well as potential national security issues. This becomes a matter for M15 if the Department of Transport does not provide an appropriate response to the claims.*

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- 3 May 2022 to the ET & the respondent:

- *I am not seeking reinstatement or reengagement in these proceedings, the situation between myself and the respondent is unworkable without the involvement of the Department for Transport. I also continue to be very disappointed in the lack of communication and progress from any investigative body having had my medical files compromised and made the victim of crime.*

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- 14 November 2022 to the ET and the respondent:

- *it is not possible to have a successful hearing in any jurisdiction without an investigation by an investigative body ... I am making a claim that I am the victim of crime.*

(not in the Bundle)

If you wish to object to this proposal, you should give your reasons in writing or request a Hearing at which you can make them by **1 December 2022**.

2. The Tribunal today was sitting in Judgment on whether to strike out the claims.
3. A comprehensive chronology was reviewed and set out in the strike out warning (above).
4. Since the strike out warning, the claimant had, on 17 November 2022, emailed the British Transport Police (and the respondent) and had emailed the Tribunal (and the respondent) on 24 November 2022.
5. In his email to the British Transport Police on 17 November 2022, the claimant had referenced his medical files being compromised in 2019. His claim for discrimination in these proceedings was advanced as discrimination by perception based on deception. The claimant referred to fraudulent/deceptive medical assessments in particular relating to blood tests. The claimant also referred to an unaccountable sum of money £10,000, thus, he said he was a victim of crime. He also referred to data protection and the issues being for the M15. He said whilst it had not been possible to seek a prosecution against the respondent, he was seeking an investigation into the individuals employed.
6. In his email of 24 November 2022, the claimant made reference to seeking a £1 million settlement/remedy. He referred to deception again and linked this to a previous fine, which he linked today, to a previous fatality. He referred to this as a corporate blind spot. The claimant referred to the only workable solution being a railway restructure. He was not seeking reinstatement/re-engagement.
7. In its skeleton argument today, supplemented orally, whilst recognising the unusual step of a strike out, the respondent considers it warranted in this case. It relies on ***Liverpool Area Health Authority (Teaching) Central & Southern District v Edwards 1977 IRLR 471*** and ***First Manchester Ltd v Kennedy UKEAT/0818/04*** as authority for the limited circumstances to go behind an Occupational Health report. The respondent says, primarily, the claims have no reasonable prospect of success as although the allegations the claimant relies upon are serious, they are inherently highly implausible. The respondent says, whilst Tribunals should be slow to strike out claims, Tribunals should not be deterred from doing so if a discrimination claim has no reasonable prospect of success (***Anyanwu and another v South Bank Students' Union 2001 ICR 391*** and ***Ahir v British Airways PLC 2017 EWCA Civ 1392***).
8. The Tribunal concluded, after much deliberation, taking into account the Hearing in October 2021, the Hearings, correspondence and submissions since, that the claimant's claims do indeed have no reasonable prospect of success and should be struck out.
9. The claimant has, repeatedly, advanced as the bedrock or platform of his assertions, the alleged multiple criminality of individuals and/or on a corporate

level. The claimant seeks criminal investigations and/or prosecutions against individuals or corporate bodies to obtain the evidence of criminal wrongdoing. He has referenced the Serious Fraud Office, M15 and the British Transport Police. The Tribunal concludes that this is asserted, continuously, as a *condition precedent* to argue his claims in this jurisdiction. In fact, the claimant's primary attack is against medical individuals not employed by the respondent. There is no clear assertion at all about how he thereby attributes criminality or wrongdoing to the decision makers for the respondent.

10. As this web of deceit, deception or fraud underpins the claimant's assertions, in respect of which he is saying repetitively, requires a separate process of law first, without which there cannot be a Hearing at all or a viable Hearing, this is one of those rare cases where it is proportionate and proper to strike out the claims as having no reasonable prospect of success under Rule 37, having regard to the Overriding Objective.
11. The Tribunal mentions in passing, that the claimant had not complied with the Tribunal's Order of 7 October 2021, he has not actively pursued his claim in this jurisdiction since the previous Full Merits Hearing and his conduct since had been unreasonable (because of his persistence in referring to all other avenues of redress whilst prolonging these proceedings) but no decision to strike out for these reasons was necessary because of the Tribunal's decision under Rule 37 (1) (a).

Employment Judge Khalil

12 December 2022