



EMPLOYMENT TRIBUNALS

Claimant: Ms S Khan

Respondent: Spire Healthcare Limited

RECORD OF A PRELIMINARY HEARING

Heard at: London Central (via Cloud Video Platform) **On:** 11 January 2023

Before: Employment Judge Joffe

Appearances

For the claimant: In person

For the respondent: Ms K Moss, counsel

JUDGMENT

1. The claimant's claims are not struck out.

CASE MANAGEMENT ORDERS

Final hearing

1. The final hearing remains as previously listed.

Applications

2. The current hearing was listed to determine the respondent's application to strike out the claimant's claims under rule 37 of the Tribunal Rules for failure to comply with Tribunal orders and on the basis that the claimant was not actively pursuing the claims. I did not strike out the claims for reasons I explained orally at the hearing.¹ However, the hearing date had been put in jeopardy by the claimant's failure to comply with directions and her failure to respond to correspondence

¹ Written reasons will not be provided unless requested by a party within 14 days of this judgment and case management summary being sent to the parties.

from the respondent in circumstances where the importance of compliance had been explained to claimant in very clear terms by Employment Judge Snelson at a case management preliminary hearing on 21 November 2022.

3. The new directions I have made below create a very tight timetable, which must be followed in order for the hearing to be effective. I have imposed unless orders on the claimant for reasons I also explained at the preliminary hearing. I explained to the claimant that the effect of these orders is that, if she fails to comply with the orders, her claims will be struck out. It is very important that she contacts the respondent and the Tribunal as soon as possible if she anticipates any difficulty with any of the directions. The claimant gave me an assurance that she was well enough to comply with the orders set out below. I explained to her that it would be helpful if she brought some medical evidence from a treating practitioner to the hearing in support of any adjustments she might need.

Documents

4. Unless the claimant sends to the respondent a list of all documents in her possession relevant to the issues in the claim, save for documents which have been provided to her by the respondent as part of its disclosure, together with electronic copies of the documents in the list, by 4 pm on **16 January 2023**, her claims will be dismissed without further consideration of the proceedings or the need to give notice. This includes documents relevant to financial losses. The claimant may have a few documents in hard copy only; she will take a photograph of any such document and send the photograph to the respondent. All copy documents will be provided electronically. The claimant thought she might have lost a few documents such as her offer letter from her current job. She will explain in the list if there are any such lost documents.
5. Also by 4 pm on **16 January 2023**, the claimant will send the respondent a request for specific disclosure in respect of any relevant documents she believes to be in the respondent's possession which have not been disclosed by the respondent. Although this order is not an unless order, the claimant should be aware that the Tribunal is unlikely to order disclosure of any document which has not been requested by 16 January 2023. The claimant will specify as clearly as possible the author and/or recipient of any document and the date or date range. She will give a brief explanation of the relevance of any document requested.
6. By 4 pm on **20 January 2023**, the respondent will respond to the claimant's application for specific disclosure.
7. Documents includes recordings, emails, text messages, social media and other electronic information. You must list all relevant documents you have in your possession or control even if they do not support your case.

File of documents

8. By 4 pm on **20 January 2023**, the respondent will send the claimant a draft bundle which includes the claimant's documents and any further documents disclosed by the respondent pursuant to the claimant's request.
9. Unless the claimant writes to the respondent by 4 pm on **24 January 2023**, indicating whether the bundle is now agreed, her claims will be dismissed without further consideration of the proceedings or the need to give notice.
10. The respondent must prepare a final bundle and send a hard and electronic copy to the claimant by 4 pm on **25 January 2023**. Any documents the admissibility of which is disputed should be placed at the end of the file.

Witness statements

11. The claimant and the respondent must prepare witness statements for use at the hearing. Everybody who is going to be a witness at the hearing, including the claimant, needs a witness statement.
12. A witness statement is a document containing everything relevant the witness can tell the Tribunal. Witnesses will not be allowed to add to their statements unless the Tribunal agrees.
13. Witness statements should be typed if possible. They must have paragraph numbers and page numbers. They must set out events, usually in the order they happened. They must also include any evidence about financial losses and any other remedy the claimant is asking for. If the witness statement refers to a document in the file it should give the page number.
14. At the hearing, the Tribunal will read the witness statements. Witnesses may be asked questions about their statements by the other side and the Tribunal.
15. The claimant and the respondent must send each other copies of all their witness statements by 4 pm on **25 January 2023**. Unless the claimant sends her witness statements to the respondent in accordance with this direction, her claims will be dismissed without further consideration of the proceedings or the need to give notice. The witness statements will be provided in electronic form and need not be signed, although the expectation is that all witnesses will attend to give oral evidence and attest to the truth of their witness statements.
16. Employment Judge Beyzade previously imposed limits on the length of witness statements. Those limits are varied to the extent that the respondent's witness statements shall be up to 75 pages in total but there is no limit on the length of any individual statement subject to that overall total.
17. The claimant and the respondent must both bring copies of all the witness statements to the hearing for their own use.
18. At least 5 days before the hearing date the respondent must send an electronic copy of the hearing file and all the witness statements to the Tribunal for the Tribunal to use.

Variation of dates

19. The parties may agree to vary a date in any order by up to 14 days without the Tribunal's permission, but not if this would affect the hearing date.

About these orders

20. These orders were made and explained to the parties at this preliminary hearing. They must be complied with even if this written record of the hearing arrives after the date given in an order for doing something.
21. If any of these orders is not complied with, the Tribunal may: (a) waive or vary the requirement; (b) strike out the claim or the response; (c) bar or restrict participation in the proceedings; and/or (d) award costs in accordance with the Employment Tribunal Rules.
22. Anyone affected by any of these orders may apply for it to be varied, suspended or set aside.

Writing to the Tribunal

23. Whenever they write to the Tribunal, the claimant and the respondent must copy their correspondence to each other.

Useful information

24. All judgments and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.
25. There is information about Employment Tribunal procedures, including case management and preparation, compensation for injury to feelings, and pension loss, here:
<https://www.judiciary.uk/publications/employment-rules-and-legislation-practice-directions/>
26. The Employment Tribunals Rules of Procedure are here:
<https://www.gov.uk/government/publications/employment-tribunal-procedure-rules>
27. You can appeal to the Employment Appeal Tribunal if you think a legal mistake was made in an Employment Tribunal decision. There is more information here:
<https://www.gov.uk/appeal-employment-appeal-tribunal>

Employment Judge Joffe

12 January 2023

Case Number: 2206161/2021

Sent to the parties on:
12/01/2023

For the Tribunal Office: