



EMPLOYMENT TRIBUNALS

Claimant: Mr F Silveira
Respondent: Trak Employment Solution Limited

JUDGMENT

The claim is struck out.

REASONS

1. By a claim form submitted on 5 January 2022, the Claimant brought a claim against the Respondent for 'unpaid wages' and 'holiday pay' in the amount of 'approximately two thousand pounds'. This claim was given the number 1400025/2022. The claim form was defective as it did not have an Acas number on it or the name of the Respondent. This was then rectified by the Claimant and by order of EJ Midgley on 9 March 2022, the claim was to be treated as presented on 19 February 2022.
2. In the meantime, on 14 January 2022, the Tribunal received a further claim form from the Claimant against the Respondent. This claim form included a little more information, but again appeared to be a claim for 'holiday pay' and 'unpaid wages' in the sum of 'at least £2000'. This claim was given the number 1400455/2022.
3. At a hearing by video on 21 October 2022, the first claim (1400025/2022) was dismissed by Employment Judge Danvers because it was out of time.
4. By a letter dated 28 November 2022 the Tribunal gave the claimant an opportunity to make representations by 7 December 2022, or to request a hearing to make representations as to why the claim should not be struck out, because:
 - a. it is scandalous or vexatious, on the basis that it appears that the claims that the Claimant is seeking to pursue by way of claim number 1400455/2022 are the same as the claims that were pursued by way of claim number

1400025/2022 and have therefore already been dismissed as being out of time; and / or

- b. it has no reasonable prospect of success, on the basis that it appears the reasons given by Employment Judge Danvers for finding that it was reasonably practicable for the Claimant to have submitted claim number 1400455/2022 in time, will also apply to claim number 1400455/2022 and therefore that there are no reasonable prospects of the second claim being found to have been submitted in time.
5. On 8 December 2022 the Claimant wrote to the Tribunal saying that he wanted to receive his wages or payment and indicating that the agency wasted his time and covid-19 meant that no one picked up his calls. However, he did not indicate that claim number 1400455/2022 is distinct from that of 1400025/2022 which has already been dismissed.
 6. The claim is therefore struck out on the basis that it is scandalous or vexatious, as the claims that the Claimant is seeking to pursue by way of claim number 1400455/2022 are the same as the claims that were pursued by way of claim number 1400025/2022 and have already been dismissed as being out of time.

Employment Judge Danvers
Date: 03 February 2023

JUDGMENT SENT TO THE PARTIES ON
17 February 2023 By MR J McCormick

FOR THE TRIBUNAL OFFICE