



EMPLOYMENT TRIBUNALS (SCOTLAND)

Employment Judge Ian McPherson

Held in chambers at Glasgow on 27 February 2023

Case Number: 8000138/2022

Miss M Kelly

Claimant

Alpha Solway Limited

Respondents

JUDGMENT

The claim is struck out under rule 37 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 on the grounds that it has not been actively pursued in terms of rule 37(1)(d) and failure to comply with Employment Tribunal orders in terms of rule 37 (1) (c).

REASONS

1. On 8 November 2022, the claimant brought a claim against the respondents alleging unfair dismissal and discrimination on the grounds of sex, alleging sexism and bullying. The respondents defended the claim by ET3 response

presented on 8 December 2022, and sought its dismissal, denying that the claimant had been unfairly dismissed, or unlawfully discriminated against, as alleged by the claimant, or at all.

2. At a case management preliminary hearing, held on 11 January 2023, the unfair dismissal head of claim was withdrawn by the claimant, and dismissed by the Tribunal under Rule 52. A judgment dated 11 January 2023 was issued to parties on 16 January 2023.
3. The remaining part of the claim was unaffected by that part-withdrawal. It was listed for a preliminary hearing on strike out / time-bar on 16 March 2023, and case management orders were made by me for that purpose. The claimant was ordered, by no later than 1 February 2023, to supply additional information, including a witness statement, and further details of her complaint of direct sex discrimination.
4. The claimant was signposted by the Tribunal to where she might access free advice and / or representation to assist her as an unrepresented party litigant. She failed to comply with the Tribunal's orders by the due date, or at all.
5. On 6 February 2023, the respondents' solicitor applied for an Unless Order under Rule 38, in respect of the claimant's failure to comply with the Tribunal's order of 11 January 2023.
6. Thereafter, on 8 February 2023, the claimant was ordered, of new, to comply by 15 February 2023, but again she failed to do so. She failed to comply with further extended dates for compliance in letters from the Tribunal sent to her on 9 and 14 February 2023.
7. Finally, on 20 February 2023 the Tribunal gave the claimant an opportunity to comply by no later than 4pm on Thursday, 23 February 2023, confirming that if she did not do so, the Tribunal would propose to strike out her claim under Rule 37 for failure to actively pursue it, and failure to comply with Employment Tribunal orders, rather than issue an Unless Order as sought by the respondents.
8. The claimant gave no written reasons by 23 February 2023, nor did she request a hearing in order to consider why her claim should not be struck out.
9. The claimant has failed to give an acceptable reason why such a Rule 37 judgment should not be made or to request a hearing. The Tribunal therefore strikes out the claim. The preliminary hearing listed for 16 March 2023 is cancelled, and parties need not attend, this case now being at an end.

Employment Judge: I McPherson
Date of Judgment: 27 February 2023
Entered in register: 27 February 2023
and copied to parties