



EMPLOYMENT TRIBUNALS

Claimant: Miss E Bridgeman
Respondent: Mr R Frost
Held at: East London Hearing Centre (by CVP)
On: 20 March 2023
Before: Employment Judge S Povey

Representation

For the Claimant: In person
For the Respondent: Ms Doble (Counsel)

JUDGMENT

The Tribunal has no jurisdiction to consider the claim and it is hereby struck out.

REASONS

1. The current claim is brought by Erin Bridgeman ('the Claimant') against Richard Frost ('the Respondent'), a director of Kingswood of Basildon Limited, the former employers of the Claimant (trading under the name Kingswood Estate Agents).
2. Following a period of ACAS Early Conciliation from 15 to 17 December 2021, the Claimant presented her claim in form ET1 to the Tribunal on 19 July 2022. She brings complaints of unfair dismissal, discrimination on the grounds of age and sex and non-payment of 'other payments'. The Respondent denies the claim in its entirety.
3. At Section 8.2 of her ET1 form, the Claimant referred to an earlier claim she brought against the Respondent which she withdrew. Further enquiries revealed that the previous case reference was 3207533/2021, that the Claimant had asked for the claim to be withdrawn and that on 19 February 2022, the Tribunal sent judgment to the parties in the following terms ('the February 2022 judgment'):

The claim, having been withdrawn by the claimant, is dismissed under Rule 52 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

4. The February 2022 judgment was made by a Legal Officer. It informed the parties of the right to apply within 14 days for the judgment to be considered afresh by a judge. No such application was received by the Tribunal.
5. The Claimant confirmed in the course of today's hearing that her current claim against the Respondent raises exactly the same complaints as her previous claim.
6. Rules 51 and 52 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ('the Procedure Rules') state as follows (emphasis added):

51. End of claim

Where a claimant informs the Tribunal, either in writing or in the course of a hearing, that a claim, or part of it, is withdrawn, the claim, or part, comes to an end, subject to any application that the respondent may make for a costs, preparation time or wasted costs order.

52. Dismissal following withdrawal

Where a claim, or part of it, has been withdrawn under rule 51, the Tribunal shall issue a judgment dismissing it (which means that the claimant may not commence a further claim against the respondent raising the same, or substantially the same, complaint) unless—

- (a) the claimant has expressed at the time of withdrawal a wish to reserve the right to bring such a further claim and the Tribunal is satisfied that there would be legitimate reason for doing so; or
 - (b) the Tribunal believes that to issue such a judgment would not be in the interests of justice.
7. As explained to the Claimant, the effect of the February 2022 judgment was to prevent the Claimant bringing the same claim against the Respondent in this Tribunal. There is an absolute bar to the resurrection of the withdrawn claim. That is the effect of Rule 52 of the Procedure Rules.
 8. The Claimant's reasons for withdrawing the previous claim do not change that effect. Once the February 2022 judgment was made under Rule 52, the Claimant could not bring these complaints again.
 9. In addition, the February 2022 judgment was a judgment which finally determined that earlier claim. It acted as a cause of action estoppel and thereby prevented the Claimant from pursuing those complaints which had been dealt with in those earlier proceedings involving the same Respondent.

10. By her own admission, the current complaints are identical to those contained in the previous claim. For the reasons explained above, the Tribunal has no power to consider the current complaints. The claim has no reasonable prospect of success and the claim must be struck out.

Employment Judge Povey
Date: 20 March 2023