



EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case No: 8000037/2023

**Preliminary Hearing held
in Edinburgh on 29 March 2023**

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Employment Judge Jones

Ms T Teneva

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**Claimant
In person
Assisted by
Interpreter Mr Gantcher**

Atalian Servest Ltd

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**Respondent
Represented by:
Mr W Rollinson,
solicitor**

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JUDGMENT

The claimant's claim is struck out as having no reasonable prospects of success and/or that it is vexatious.

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Background

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1. The claimant had presented a claim number 8000043/2022 on 27 August 2022. A number of preliminary hearings have taken place in relation to that claim. At the last preliminary hearing, the claimant was informed that if she wished to make any application to amend her claim (in particular to include a claim in relation to holiday pay), then she should do so within 14 days.

2. The claimant took advice in relation to these directions and for reasons that are not entirely clear lodged the current claim rather than making an application to amend her previous claim. The claimant was asked a number of times in writing by the Tribunal to confirm whether the present claim was in essence the same as the previous claim which had been lodged as the claimant had failed to provide dates of employment in her claim form. She failed to provide this information. A routine case management hearing had been listed for today in relation to the current claim. As a result of the claimant's failure to provide her dates of employment in relation to this claim and on the basis that the claim appeared to be related to the same period of employment of the first claim and this employment had terminated in August 2022, the claimant was advised that this hearing would consider striking out her claim. The claimant had been advised twice in writing that if she did not provide the required information, consideration would be given to striking out her claim.
3. The claimant confirmed that the second claim which had been lodged did relate to the same matters as the first claim. The claimant had wished to make amendments to the previous claim. I explained that she had been informed that any amendments should be made by way of application for amendment and that the new claim had been lodged more than 3 months after the termination of her employment and related to matters to be determined at a final hearing which was listed to take place in June.
4. I then sought to understand what new issues the claimant was seeking to raise in this second claim. It appeared that the claimant was complaining that her annual leave had been delayed and that she did not receive statutory sick pay to which she was entitled. I explained to the claimant that it was difficult to understand on what basis the Tribunal had jurisdiction to deal with a claim where there had been a delay in allowing the claimant to take annual leave. I also explained that the Tribunal may not have jurisdiction to deal with any claim in relation to sick pay if the sick pay was statutory sick pay rather than contractual sick pay.

5 5. I indicated that if the claimant did wish to make any application to amend her claim, she would have to do so in writing setting out in clear terms the nature of the amendment sought, the remedy sought and the statutory basis of the claim. I referred the claimant to paragraph 8 in the Note of the hearing of 16 January in relation to her first claim.

6. I then gave the claimant an opportunity to advance any reason why her second claim should not be struck out. She conceded that the second claim 'overlapped' the first claim.

10 7. On that basis I indicated that the second claim would be struck out and if the claimant wished to make any amendments to her first claim she should do so in writing as soon as possible. I also urged the claimant to send any documents on which she wished to rely at the final hearing in relation to her first claim to the respondent's solicitor as soon as possible and that I would issue directions in writing in that regard.

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Employment Judge: Amanda Jones
Date of Judgment: 29 March 2023
Entered in register: 30 March 2023
and copied to parties

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