



EMPLOYMENT TRIBUNALS

Claimant: Mr P Dixon

Respondent: Royal Mail Group Limited

HELD AT: Manchester **ON:** 13 April 2023

BEFORE: Employment Judge Shotter (by CVP)

REPRESENTATION:

Claimant: In person

Respondent: Miss Zakia Tahir-solicitor

JUDGMENT

The judgment of the Tribunal is that:

1. The claimant has materially complied with the Unless Order dated 23 June 2022 and the claimant's application for relief against sanction is granted.
2. The claim for unfair dismissal will proceed to a final hearing listed for 1-day on the **7 July 2023** before a judge sitting alone **by CVP video link** at the Liverpool Employment Tribunals, 35 Vernon Street, Liverpool, L2 0NH starting at 10am.

REASONS

1. This is a preliminary hearing to consider the claimant's application for a relief against sanction. By a notice sent to the parties on the 2 February 2023 I will be determining the following issues:

1.1 Whether there has been material compliance with the unless order dated 23 June 2022,

1.2 If not, whether the claim should stand dismissed or whether the claimant should be relieved from sanction of dismissal.

1.3 If the claim is not dismissed, “to obtain further clarification of the claimant’s claim for equal pay (having regard to Weightmans’s email of 6 July 2022) and list the case for a final hearing”. It is agreed between the parties that the claimant is not bringing an equal pay claim.

2. I have before me a number of documents in a bundle consisting of 80-pages , which were checked with the parties, all of which I have considered and do not intend to repeat. I am aware of what took place leading to the unless order being issued on the 23 June 2023 and will be concentrating on the steps taken by the claimant as a result.

3. The claim form was received on the 8 November 2021. The claimant was employed as a postal worker from the 25 April 2000 until summary dismissal on the 18 August 2021. He brings a complaint of unfair dismissal under section 94 and 98 of the Employment Rights ACT 1996 as amended. The claimant’s case is that he was sharing a vehicle with a colleague, they were not wearing masks (it was the Covid-19 pandemic) and the claimant only was not wearing seatbelt (an allegation the claimant denies). The claimant’s colleague received a 2-year warning. The claimant referred to “numerous case comparators...where similar alleged infringements have received a lesser penalty.”

4. In a letter dated 3 March 2022 sent to the claimant by the Tribunal a judge (it was myself) ordered the claimant to provide the names, alleged misconduct and difference in treatment of his case comparators referred to in para. 8.2. Case management orders were made with dates of compliance including the provision of a schedule of loss. A rule 21 No Response Received letter was sent to the respondent.

5. The respondent failed to file a response in time and applied for an extension of time.

6. It was apparent that there was an issue with the claimant’s email address and whether or not he had received correspondence.

7. In a letter from the Tribunal dated 21 April 2022 the respondent’s application was granted and the claimant ordered to provide his comparator details no later than 28 April 2022.

8. The Tribunal had listed the claim for a final hearing on the 18 July 2022.

9. On the 9 May 2022 the respondent applied for an unless order due to the claimant’s non-compliance.

10. On the 18 May 2022 the respondent sent the claimant a bundle of documents for the final hearing.

11. On the 23 June 2022 Judge Leach referred to recent correspondence from the claimant's new lay representative that the claimant had not received correspondence from the Tribunal. Copy documents were provided to the claimant. The parties were told that steps should be taken to ensure the case was ready for trial and an unless order made under Rule 38 of the Employment Tribunal Rules of Procedure 2013 ordering the claimant by 4 July 2022 to provide the details set out in the 21 April 2022 letter that was annexed, and provide the respondent with documents for the final hearing. Reference was made to the claimant changing his contact details and failing to inform the Tribunal. In short, the claimant was ordered to provide details of his comparators and remedy by 28 April 2022 to the Tribunal and respondent, failing which "the claim will stand dismissed without further order."

12. On the 1 July 2022 the claimant emailed the respondent enclosing a statement of loss, witness statement and attachment. The schedule of loss set out the basic and compensatory award. The statement referred to a number of matters including the claimant comparing himself with his colleague who was issued with the 2 year warning and a postman from Dundee. The document was a newspaper article relating to the Employment Tribunal case of the postman from Dundee.

13. In an email sent to the claimant by the respondent's solicitors on the 4 July 2022 it is apparent that the case was ready for trial. The bundle was updated and the claimant sent the respondent's witness statements. The claimant was actively taking part and party-to party correspondence was exchanged. Both parties accept today that the claimant had complied with the unless order and the case is ready for trial. Accordingly, I have listed the final hearing as recorded above. The parties will be advised of the dial in details in die course.

14. In conclusion, it is in the interests of justice and as a fair trial remains possible to grant the claimant's application for relief against sanction.

Case management order

15. The claimant is ordered to (following his agreement) send to the respondent's solicitors documentary evidence of Universal Credit and attempts to obtain alternative employment up to and including the 1 July 2022 (the date when the claimant's loss of earnings stops according to the claimant) no later than **11 May 2023**.

13.4.23

Employment Judge Shotter

Case No: 2414461/2021

Judgment and reasons SENT TO THE PARTIES ON

17 April 2023

FOR THE SECRETARY OF EMPLOYMENT TRIBUNALS