



EMPLOYMENT TRIBUNALS

Claimant: Ms M Okunola

Respondents: TwentyAi (1)
Titan Wealth Holdings Ltd (2)
Qdos Broker & Underwriting Services Ltd (3)

JUDGMENT

The claimant's application dated **18 February 2023** for reconsideration of the judgment sent to the parties on **8 March 2023** is refused as there is no reasonable prospect of the original decision being varied or revoked.

REASONS

1. The claimant submitted an application for review before the Judgment striking out her claim was sent to her. I gave the claimant a further opportunity to submit grounds for review within the applicable time.
2. The claimant submitted three documents outlining her grounds for seeking a review, she also submitted numerous documents in support. I read all documents. There are a large number of arguments raised by the claimant, which I have tried to address below. As far as I can see from the claimant's documents, her main grounds for review are:
 - a. The Tribunal got the law wrong and did not apply the correct law, the issues relied on by the claimant are set out below.
 - b. The Tribunal acted unfairly and dishonestly by stating that claim no. 2210731/22 (the 2nd claim) would address the issue of notice pay and employment status, as the 2nd claim is one of race discrimination and whistleblowing.
 - c. The claim of employment status and length of and notice pay require addressing in the interests of justice.

A review of decision not to allow her amendment to add a claim of race discrimination against R1

3. The claimant repeats her arguments at the Preliminary Hearing, that R1 aided and abetted R2's discrimination against her by deliberately concealing her true status as an employee of R2. A claim against an entity that they are acting as an agent of another in discriminating against an employee is potentially a claim which falls within the jurisdiction of the Employment Tribunal.
4. The claimant argues that these are different facts from the 2nd claim. But they relate to the period of the claimant's engagement with the 2nd respondent, and the 2nd claim relates to a period of engagement with the 2nd respondent with similar allegations.
5. If this claim were allowed to proceed, it would mean that two different tribunals would be tasked with dealing with claims of race discrimination against several different respondents relating to the claimant's engagement by the 2nd respondent.
6. It is an abuse of process to seek a determination in two separate tribunals of similar issues arising from the same engagement or employment.
7. The claimant argues that "these facts" are not present in the 2nd claim. But the allegations against R1 are effectively ones of agency in the current claim, that R1 and R2 acted in such a way to deny the claimant's status. The 2nd claim is interlinked with these issues. The 1st and 2nd claims would necessarily explore the same issues.
8. The claimant also argues that this decision was biased, and I failed to follow the law. The claimant argues that her application to amend was denied even though there were reasonable prospects of this claim being successful. The claimant's argument centres on the issue of her status. But the issue of status, length of employment and the 2nd respondent's treatment of her are issues in the 2nd claim because in this claim the claimant argues that the 2nd respondent was her employer throughout the relevant period.
9. The claimant argues that the notice pay claim is against the 1st respondent and should not be struck-out. But the claimant can only bring a notice pay claim against the 1st respondent if she was an employee or worker of the 1st respondent: as she puts it "... the agreement would be between the Claimant and R1, therefore, the Claimant's notice claim could not be struck out". But her 2nd claim is arguing she was an employee of the 2nd respondent during the same period. The claimant cannot reasonably argue that she was an employee of the 2nd respondent in one claim and argue she is entitled to notice pay from the 1st respondent as an employee or worker. The claimant is asking the tribunal to consider different arguments arising from the same issues in different tribunals making different arguments, and this is an abuse of process.

10. In her submission the claimant argues that the 1st claim should be joined with the 2nd/3rd claims, “as all arise out of the same facts and questions of law as the original case. The rules permit a claimant to either apply to amend, to add further claims or additional facts, or to issue another claim that can be joined with a further claim. Joining all three cases was rejected at the preliminary hearing.” Given this argument I asked the parties to respond with further arguments on this issue, which had not been properly explored at the Preliminary Hearing. In her response dated 18 April 2023, the claimant objected to the cases being joined, on the basis that the issues were different, the current case being concerned about discrimination during her period as a ‘worker’ and not the period of her employment. The 2nd respondent also opposes a joinder of the claims. For these reasons I did not consider consolidating the 1st case with the 2nd and 3rd cases.
11. The claimant argues that similarity bias is an issue, and the burden should shift to respondents 1 and 3. But this does not address the issue of whether the tribunal had jurisdiction to hear a claim against respondent 3 (it does not) or the similarity of the claims and issues in claims 1 and 2.
12. The claimant argues that I failed to consider the injustice or hardship which would result from a refusal to make the amendment. I accept I did not do so, because the application to amend failed at an earlier stage, that of jurisdiction.
13. I therefore see no error in my decision not to allow the claimant’s application to amend her claim.

R3’s strike-out application not properly served

14. The 3rd respondent’s defence to the claim, its ET3, requests that the claim against it be struck-out on the basis that the tribunal has no jurisdiction to hear a claim against it. The claimant was copied into correspondence with the Tribunal in which the 3rd respondent seeks a strike-out. I did not accept that the claimant was unaware that the 3rd respondent sought a strike-out on this basis.

R1 & R2s applications to strike-out

15. I accept the employment tribunal has jurisdiction to consider claims of notice pay and employment status. But the claimant again makes two sets of discrimination allegations in two claims against different parties relating to the same period. The claimant cannot seek to sub-divide discrete acts to be dealt with in one claim and seek to have related acts of discrimination adjudicated against in another. This is an abuse of the Tribunal process.

Documents by R1 and R2 Not Submitted Before Deadline

16. The claimant argues that relevant documents including the 2nd respondent’s application for a strike-out were submitted up to the day before the Preliminary Hearing. I accept this. But I did not accept that the claimant was put to any disadvantage, as she was aware of the 2nd respondent’s

application prior to this date. The claimant submitted a large bundle of documents, and she was able to argue at the hearing why her claim should not be struck-out.

The claimant's application to strike-out the respondents' defences

17. I did not consider that these applications stood any realistic prospects of success and the application for review does not change this position. There is no reasonable prospect of the original decision being varied or revoked.

Employment Judge **Emery**

Date 2 May 2023

JUDGMENT SENT TO THE PARTIES ON

02/05/2023

FOR THE TRIBUNAL OFFICE