



EMPLOYMENT TRIBUNALS

Claimant: Ms J Thomas

Respondent: Stori Wales (formerly Hafan Cymru)

JUDGMENT

UPON a reconsideration of the judgment dated **17 January 2023** on the Tribunal's own initiative under rule 73 of the Employment Tribunals Rules of Procedure 2013, and without a hearing, the Judgment striking out the complaint of Public Interest Disclosure detriment is revoked.

The Judgment striking out the claims of disability discrimination remains in force.

REASONS

1. At a case management hearing on 13 June 2023 EJ Moore recorded that EJ Grubb had made a number of deposit orders at a preliminary hearing on 4 October 2022. One of those claims subject to a deposit order was for a claim that the claimant "suffered detriment as a result of making protected disclosures." EJ Moore noted that this differed from the claim categorised by Judge Ryan in his case management order of 24 June 2022 which recorded a complaint of automatic constructive unfair dismissal for reason of having made a protected disclosure, i.e. that the pleaded protected disclosure complaint was a constructive unfair dismissal complaint, not a detriment complaint.
2. The deposit order was not paid by the claimant. On 30 October 2022 she sent an email saying: "*I confirm I will not be pursuing these claims as set out below; a. £50 in respect of the whistleblowing claim...*"
3. On 17 January 2023 I signed a Judgment striking out the claimant's claims for disability discrimination and public interest disclosure detriment. I understand from EJ Moore's case management order that for reasons unknown this Judgment has never been sent to the parties. Nonetheless it is a Judgment I signed.
4. I am revoking my Judgment striking out the Public Interest Disclosure detriment claim because it appears to me that I have struck out a claim that was never brought in the first instance. I consider it is therefore in the interests of justice for me to revoke that Judgment. To be clear this does not affect the other part of my Judgment where I struck out the disability discrimination claims for non payment of the deposit orders.

5. This leaves the question of the status of EJ Grubb's deposit order of 4 October 2022 and the protected disclosure constructive unfair dismissal claim. I do not have any authority to vary or revoke the order of another Judge. The parties need to consider whether to make a request that EJ Grubb revisits that part of her deposit order. I was not present at the hearing on 4 October 2022 and the only documents I have access to are EJ Grubb's deposit order and the Respondent's counsel's skeleton argument for that hearing. I do note in that skeleton argument at paragraph 23 the respondent made an argument in relation to the automatic unfair constructive dismissal claim arising from alleged protected disclosures that: "*The Claimant has not identified any detriments by the Respondent as the result of the concerns that she has raised and which amounted to a repudiatory breach of her contract of employment.*" It strikes me that it is possible that EJ Grubb's deposit order was in fact focused on the Claimant's protected disclosure automatic constructive unfair dismissal claim and that the use of the word "detriment" relates to the point the Respondent was making about that in paragraph 23 of their skeleton argument. But I was not there, I cannot be certain, and as I have said, I have no ability to vary or revoke EJ Grubb's deposit order.

**Employment Judge R Harfield
14 June 2023**

JUDGMENT SENT TO THE PARTIES ON 14 June 2023

FOR THE TRIBUNAL OFFICE Mr N Roche