



EMPLOYMENT TRIBUNALS

Claimant:
Mr K Thomson

v

Respondent:
East Lindsey ITeC Limited
trading as First College

STRIKE OUT

The claim is struck out under Rule 37(1)(b), Rule 37(1)(c), and Rule 37(1)(d) of Employment Tribunal Rules of Procedure 2013 because the claimant has conducted the claim in an unreasonable manner, has failed to comply with Orders of the Tribunal, and is consequently no longer actively pursuing his claim.

REASONS

1. The papers have come before me following the claimant's failure to comply with an Order of Employment Judge Brewer made at a preliminary hearing on 23 May 2023. The claimant did not attend that hearing, but was send the record of the hearing, case management summary and orders on 16 June 2023.

2. Judge Brewer's orders say:-

"2. Employment Judge Brewer is considering striking out the claim because –

2.1 the manner in which the proceedings have been conducted by or on behalf of the claimant has been unreasonable (rule 37(1)(b) Employment Tribunal Rules 2013),

2.2 the claimant has not complied with the Order of the Tribunal at paragraph 24 of the Orders of Judge Ayre dated 7 March 2023 (rule 37(1)(c) Employment Tribunal Rules 2013),

2.3 the claim has not been actively pursued (rule 37(1)(c) Employment Tribunal Rules 2013),

2.4 the claimant failed to attend the preliminary hearing listed for 10:00am on 23 May 2023 without notifying the Respondent or the Tribunal of any reason for his non-attendance (rule 47 Employment Tribunal Rules 2013),

2.5 The claimant must give reasons in writing why his claim should not be struck out for one or more of the reasons set out above or request a hearing at which he can set them out within 7 days of the date these Orders are sent to the parties.”

3. It is now 5 July 2023 and no correspondence has been received by the claimant, in breach of Judge Brewer’s order. He has done nothing to cure the earlier breaches and omissions recorded in Judge Brewer’s order either. It appears from the file that he has not taken any action to continue this claim after the hearing before Employment Judge Ayre on 21 February 2021. He was represented in that hearing. I am satisfied that Employment Judge Brewer’s warning was sent to the claimant personally, and the respondent has also taken steps to include the claimant directly in correspondence about Judge Brewer’s order.
4. In my judgment, the claimant has acted unreasonably in his conduct of the claim since 21 February 2021. He has also failed to comply with orders of the Tribunal and has ceased to actively pursue his claim. It is not in accordance with the overriding objective to continue in those circumstances and it would not be a proportionate response to leave the claim idle or to allow the claimant another opportunity to comply with orders which have been ignored multiple times.
5. Consequently, the claim is struck out.

Employment Judge Fredericks-Bowyer

Dated: 5 July 2023
Sent to the parties on:

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For the Tribunal Office:

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