



EMPLOYMENT TRIBUNALS

London South Employment Tribunal
2nd August 2023 (papers)

Claimant: Eman Ibrahim

Respondent: Riverside Dental Spa

Before: Judge M Aspinall (sitting alone as an Employment Judge)

JUDGMENT

The Employment Tribunal Rules of Procedure 2013 - Rule 21

1. The claim for unfair dismissal resulting from discrimination on the basis of maternity succeeds.
2. The final hearing listed for **14 November 2023** is vacated and will not take place.

REASONS

3. The Claimant issued her claim in the London South Employment Tribunal on 2 May 2023 concerning allegations of pregnancy and maternity discrimination by the Respondent employer. The Claimant alleged she was dismissed as a detriment related to her pregnancy.
4. The Respondent has failed to submit a Response as required by Rule 16 of the Employment Tribunal Rules of Procedure 2013. That response was due to be served at the Tribunal by 22 June 2023. Owing to this default, I find the Respondent cannot rely on any argument that the Claimant failed to comply with Orders of the Tribunal. Instead of submitting the response to the claim, as required by law, the Respondent has instead sought to have the claims struck out because they say that the Claimant has not provided them with disclosure in line with the standard case management orders. I find that the failure by the Respondent to submit any kind of response to the claims is a fundamental breach of the statutory requirement that they should do so. Rule 21(1) states that "*Where on the expiry of the time limit in rule 16 no response has been presented, or any response received has been rejected and no application for a reconsideration is outstanding, or where the respondent has stated that no part of the claim is contested, paragraphs (2) and (3) shall apply*".
5. Rule 21(3) states that "*The respondent shall be entitled to notice of any hearings and decisions of the Tribunal but, unless and until an extension of time is granted, shall only be entitled to participate in any hearing to the extent permitted by the Judge*". That shall be the case here.
6. Rule 21(2) states that "*An Employment Judge shall decide whether on the available material (which may include further information which the parties are required by a Judge to provide), a determination can properly be made of the claim, or part of it. To the extent that a determination can be made, the Judge shall issue a judgment accordingly. Otherwise, a hearing shall be fixed before a Judge alone...*". Given the lack of a Response (under Rule 16) setting out the Respondent's position, I am satisfied a default judgment should be entered against the Respondent under Rule 21(2) of the Employment Tribunal Rules of Procedure 2013.

7. The Claimant must now provide a Schedule of Loss detailing the losses she seeks to recover from the Respondent. Separate Case Management Orders will be issued.

Judge M Aspinall
Wednesday, 2nd August 2023