



EMPLOYMENT TRIBUNALS

Claimant: Mr e Kamphues

Respondent: Venator Materials UK Ltd

JUDGMENT

The complaints of: -

1. Unfair Dismissal
2. Unlawful Deductions from Wages
3. Public Interest Detriment
4. Direct Race Discrimination

Are struck out.

REASONS

1. By a letters dated **20th June 2023** and **18th July 2023** the Tribunal gave the claimant an opportunity to make representations or to request a hearing, as to why the complaints of should not be struck out because
 - the claimant has not complied with the Order of the Tribunal dated **3rd MAY 2023**.
 - it has not been actively pursued.
2. The claimant has failed to make representations in writing, or has failed to make any sufficient representations, why this should not be done or to request a hearing. The complaints of unfair dismissal, unlawful deductions from wages, race discrimination and detriment as a result of making a protected disclosure are therefore struck out.
3. For the avoidance of doubt all claims under this case number are struck out.

Reasons

1. The claimant was employed by the respondent, that manufactures Titanium Dioxide, as a Lead Country Accountant, from 2nd July 2018 until 2nd October 2022.
2. This matter was listed before me today as an in person preliminary hearing to establish the issues and set the case down for a final hearing. There has been a substantial history to the case.
3. It was listed for a preliminary hearing before Employment Judge Arullendran on 3rd May 2023 by telephone. Neither the claimant nor his representative attended the hearing. There was no explanation given at that time.
4. The Judge adjourned the hearing and made various orders including at paragraph 4 orders for further information to be provided in relation to three of the heads of claim by 23rd May 2023. The orders were sent to the parties on 16th May 2023.
5. The hearing was relisted for 12th July 2023 by telephone. The respondent requested a postponement of the hearing by email on 16th May 2023. The day upon which the postponement letter was sent.
6. On 7th June 2023 the respondent requested that the Tribunal make an unless order because the claimant had failed to respond to the further information by 23rd May 2023.
7. Employment Judge Arullendran made an unless order on 20th June 2023. The claimant was given until 27th June 2023 to object.
8. On 28th June 2023 the claimant's representative wrote to the Tribunal to object to the proposed order without explaining in detail why. Further they stated that they were asking for more time to comply with the order.
9. The hearing of 12th July was postponed and relisted for 4th August 2023.
10. On 13th July Employment Judge Jeram wrote to the claimant. The letter requested the claimant to send or resend information required by Employment Judge Arullendran in paragraph 3 of her orders. In addition to explain why the claimant had not complied with the order at paragraph 4.
11. No reply was received. On 18th July 2023 Employment Judge Arullendran issued a strike out warning on the basis that the claimant had not complied with the Order of May 3rd, 2023, and the claim was not being actively pursued. The claimant was given until 25th July 2023 to respond. The claimant responded on 26th July objecting to such an order partly because the claimant was too ill to deal with the claim.

12. On 1st August 2023 the claimant requested an adjournment of the hearing on 4th August because of an emergency tooth extraction. The respondent did not agree to the request without some medical evidence. The hearing was adjourned by Employment Judge Smith. The hearing was re listed for 30th August 2023.
13. Employment Judge Smith also made an order that the claimant comply with Employment Judge Arullendran' s orders at 3.1 -3.4 plus evidence in relation to the illness and a response to the strike out application of 25th July 2023, by 17th August 2023.
14. On 17th August 2023 the claimant responded. Detail was given about the medical emergency, but the claimant refused to disclose his medical record.
15. On 18th August the respondent replied asking the Tribunal to consider its strike out application
16. On 23rd August 2023 the claimant emailed the Tribunal and set out at length comments concerning the manner in which the respondent's representative and the Tribunal had dealt with the case. In relation to the request for further information, under a heading 'Claimants reasons for bring the case' in which he refers to trying to resolve the issues and that he felt deceived and defrauded by the respondent. He did not set out as required nay information which would comply with paragraph 4 of Employment Judge Arullendran's order.
17. The hearing of 30th August 2023 was adjourned until today on 24th August 2023. The hearing was listed in person at Teesside Justice Centre, Victoria Square, Middlesbrough, TS1 2AS. The notice was sent to the parties on 24th August 2023.
18. On 7th September the claimant asked for the hearing to be adjourned. He cited that he is currently working abroad and would like three months' notice of any future hearing. The request was denied by Employment Judge Jeram on the same day.
19. To date the claimant has still failed to respond to the strike out request.
20. The Tribunal received two emails from the claimant's representative today; one at 13:45 one at 13:56. That is 15 minutes prior to the hearing. Neither the claimant nor his representative attended. There was again a request that today's hearing be adjourned. Accompanying the email was a copy of flight ticket dated 23rd June 2023 which still has the boarding card attached. The claimant's representative says that the property in Sutton in the UK is empty and undergoing renovation. At no time has the claimant or his representative informed the Tribunal of a change of address. The email goes on that 'they had no idea' the order was going to be made to list the case today.
21. In the second email a schedule of loss is attached. In the body of the email. In response to other payments the claimant states he refers to

'any other benefits he might have been entitled to as a Country Finance Director. He is unable to supply further detail and request detailed information from the respondent so he may particularise his claim.

22. In regard the further particulars the claimant sets out a narrative in relation to his claims and makes requests for disclosure in order to be able to put his case together. He does not answer the points raised by Employment Judge Arullendran in paragraph 4 of her order.
23. No reason is given for the substantial delay in even making an attempt to respond to the order. I note that the responses received from the claimant are always late or at the last minute such as today's correspondence.
24. Having reviewed the ET1 and the ET3 and the above information the claimant's case is speculative. He provides no information of any direct detriment or discrimination, rather it is I should have been paid at a higher level, or I should have been given a particular role.
25. In dealing with the application for strike out I take into account that the claimant is a litigant in person, assisted by a friend. I also take into account that German is not his first language. I have considered the history of the claim, the written representations from the respondents and the latest correspondence on behalf of the claimant.
26. However, it has been 6th Months since the ET1 was lodged and 11 months since the claimant's employment ended. There is still no cogent response to the Judge's order. The claimant has instead engaged in correspondence which makes allegations about the respondents' representative behaviour and the Tribunal, refusing at some points to acknowledge that the Tribunal has authority to order disclosure, such as the medical evidence requested.
27. The claimant since filing the ET1 has failed in any meaningful way to engage in the Tribunal process and the Tribunal still does not know how the case is pleaded. It is not for the respondent to provide information at this stage, it is for the claimant to set out the grounds of his complaint which he has failed to do.
28. I concluded that the claimant had failed to comply with the order of Employment Judge Arullendran and that the claim has not been actively pursued. Therefore, it will be struck out pursuant to Rule 37 (1)(c) & (d).

Employment Judge Pitt

15 September 2023