



EMPLOYMENT TRIBUNALS

Claimant: Mr M Fresh

Respondent: Works Manager Guarantee Laundries Ltd

Heard at: Southampton (telephone) **On:** Thursday 14 September 2023

Before: Employment Judge A Matthews

Representation:
Claimant: In Person

Respondent: Ms A Jervis - Consultant

JUDGMENT

Mr Fresh's complaints of discrimination (being, for the avoidance of doubt, the only complaints before the employment tribunals) are struck out.

REASONS

1. A public preliminary hearing was set down in this case for 14 September 2023.
2. The relevant history can be summarised as follows.
3. On 28 February 2023 Mr Fresh delivered a claim form by hand to the Bristol office of the employment tribunals.
4. The claim form raised complaints of unfair dismissal and discrimination on the grounds of sex and (possibly - events have overtaken clarification of this) sexual orientation.
5. The claim was accepted and served on the Respondent. The Respondent entered a response on 6 April 2023.

6. On 22 May 2023, on the direction of Employment Judge Midgley, the tribunal sent Mr Fresh a strike out warning in relation to the claim of unfair dismissal. It appeared that Mr Fresh did not have the qualifying period of employment required by section 108 of the Employment Rights Act 1996 as a condition of an employment tribunal hearing an unfair dismissal claim under section 94 of that Act. Mr Fresh was given until 30 May 2023 to give reasons why the complaint of unfair dismissal should not be struck out on that basis.

7. Mr Fresh responded on 29 June 2023 with an abusive email referring to the Employment Judge. The wording is on file.

8. On the direction of the Employment Judge, on 21 July 2023 the tribunal sent Mr Fresh an email. It included an Order that:

“If the claimant sends any further abusive emails to the Tribunal, he runs the risk of the claims being struck out on the grounds that his conduct of the proceedings is unreasonable and abusive.”

9. Accompanying that Order was a Judgment of Employment Judge Midgley striking out Mr Fresh’s claim of unfair dismissal. (This followed the warning sent to Mr Fresh on 22 May 2023, to which Mr Fresh had provided no substantive response.)

10. On the same day, 21 July 2023, Mr Fresh responded with a further abusive email directed at the Employment Judge. Again, the wording is on file.

11. On 23 August 2023, on the direction of the Employment Judge, the tribunal sent Mr Fresh an email which included:

“The claimant was warned on 21 July 2023 that if he sent abusive messages to the Tribunal his case may be struck out. He responded the same day with an abusive message” “The claimant must therefore write to the Tribunal and the respondent within 7 days (30 August 2023) to explain why his claims should be struck out on the grounds that he has conducted the proceedings abusively or unreasonably.”

12. That email, timed at 1108 was responded to by Mr Fresh at 1111. The response was another abusive email referring to the Employment Judge. The wording is on file.

13. The hearing before me commenced at 1400. Mr Fresh did not attend initially. There were signs on the file that Mr Fresh might be unsure how to attend. As the Bristol office of the employment tribunals could not be contacted by telephone, the Respondent’s representative agreed to telephone Mr Fresh and arranged for him to join the hearing at 1417.

14. It seemed likely to me from the communications on file that Mr Fresh might have a degree of dyslexia. I asked him about this and he confirmed it affected his

reading and writing. I explained that adjustments could be made to assist him in this respect.

15. I next addressed the strike out warning sent to Mr Fresh on 23 August 2023. I asked Mr Fresh to explain why his claims should not be struck out as he had provided no explanation. I invited Mr Fresh to explain to me. Mr Fresh first claimed that he had not received the strike out warning dated 23 August 2023. When I pointed out that he had responded by email three minutes later, Mr Fresh changed his account. Mr Fresh claimed that he had not sent the reply as anyone could have used his email account. Presumably realising that I was unlikely to believe him, at this point Mr Fresh uttered some abuse including telling me to "*fuck off*". Mr Fresh then put the telephone down.

16. In the circumstances and in exercise of the power conferred on me by rule 37(1)(b) I strike out Mr Fresh's claims on the ground that he has conducted the proceedings in an unreasonable way.

Employment Judge A Matthews
Date: 20 September 2023

Judgment & reasons sent to the Parties on 12 October 2023

For the Tribunal Office