



EMPLOYMENT TRIBUNAL

Claimant: Mr. K. Couson

Respondent: Bidvest Noonan (UK) Ltd.

Hearing: Final Merits Hearing

Heard at: London Central ET (via video/CVP)

On: 11-12 October 2023 (no sitting on 13 October 2023)

Before: Employment Judge Tinnion, Members Mr. Carroll, Ms. Marsters

Appearances: For Claimant: In person
For Respondent: Ms. R. Senior, Counsel

JUDGMENT

1. The Claimant's application under Rule 29 for the case management orders below is denied:
 - (a) order directing Respondent to request copy of certain CCTV footage from third parties CBRE (facilities manager) and PIMCO (building tenant);
 - (b) order adjourning final merits hearing pending third parties' responses to aforesaid request for CCTV footage.
2. The Respondent's application under Rules 37(1)(c) (non-compliance with Tribunal orders) and 37(1)(e) (no longer possible to have a fair hearing in respect of the claim) for an order striking out the Claimant's claims of unfair dismissal under ss.94-98 of the Employment Rights Act 1996 and direct race discrimination under ss.13 and 39(2)(c)-(d) of the Equality Act 2010 on the grounds that a fair trial of those claims at the final merits hearing is no longer possible because of the Claimant's failure to prepare and serve a witness statement on the Respondent is granted.

3. The Claimant's claims of unfair dismissal under ss.94-98 of the Employment Rights Act 1996 and direct race discrimination under ss.13 and 39(2)(c)-(d) of the Equality Act 2010 are struck out under Rule 37(1)(e).
4. Any application for costs by the Respondent must be made in writing by 4pm on 26 October 2023.

NOTE

1. Reasons for the decisions above having been given orally at the final merits hearing, written reasons will not be provided unless a request is made by either party at that hearing (no such request was made) or within 14 days of the sending of the written record of the decision. If no timely request for written reasons is received, the Tribunal will provide written reasons only if requested to do so by the Employment Appeal Tribunal or a court.
2. Judgments are published online after they have been sent to the parties.

Signed (electronically): *Employment Judge Antoine Tinnion*

Date of signature: 12 October 2023

Date sent to parties: 12 October 2023