



EMPLOYMENT TRIBUNALS PUBLIC PRELIMINARY HEARING

Claimant: Ms Lauren Arafat

Respondent: Strike Limited

HELD AT: Leeds By CVP ON:26 September and 2 November 2023

BEFORE: Employment Judge JM Wade

APPEARANCES:

Claimant: in person

Respondents: Miss Price, counsel

JUDGMENT

The claimant's protective award and unlawful deductions from wages complaint (full pay from May to December 2022) are struck out.

REASONS

1. The claimant presented an ET1 on 14 May 2023 from which some complaints could be clearly discerned and others required clarification. Of the clear complaints discussed at a case management hearing on 10 August 2023, the Employment Judge said this about the claimant's protective award complaint: *...it may well have triggered the obligation to engage in collective consultation.....However the claimant says that employee representatives were consulted, so that she could not bring a claim for a failure to engage in individual consultation giving rise to a protective award".*

2. On 15 September the claimant provided her further information about her claims as Ordered. She did so in part by providing a table of Equality Act complaints but also by annotating, in red, comments on the Employment Judge's analysis of the claims. After the comment above she said "*correct, rang me up one night in the middle of the night and ..told me they simply forgot about me, and some others apparently.*"
3. Today we discussed the protective award claim again and I gave the claimant the opportunity to explain why it should not be struck out – the fact of consultation with employee representatives being undisputed, and her comment that the Judge's analysis was correct. She did not provide any reason today why this this claim should not be struck out as factually misconceived. She may have a sense of grievance about being forgotten about during a mass redundancy exercise, but that does not amount to a protected award claim where representatives were consulted.
4. As to an authorised deductions from wages complaint, the undisputed facts in the claimant's case include that she was suspended from work on 31 March 2022, and was instructed to return to work on from 20 April 2022. She then went off sick on 11 May 2022 and submitted doctor's notes thereafter and did not return to work. She was dismissed by letter on 7 December 2022. Her case that she was in fact suspended from 11 May and entitled to full pay is said to arise from the contents of a dismissal letter sent to her by Mr Mellonie on 7 December 2022.
5. On 26 September the claimant said there were three versions of this letter (because it was not apparent in the respondent's copy that Mr Mellonie had said the claimant was suspended rather than being on sick leave from May). She was ordered to provide those versions, but indicated in her response that I had misunderstood, and that it was different communications (and not necessarily by Mr Mellonie where this was said). Today within a bundle of 667 pages I was able to see that there was also a letter sent by Ms Crossfield on the same day - 7 December 2022 - outlining the pay and other arrangements consequent on termination of employment. There is also nothing in that letter which suggests the claimant was suspended from May to December 2022 – quite the contrary.

6. We discussed this matter again today and the claimant did not provide any basis for me to disregard the strike out warning previously given (Order 4 of the orders from 26 September 2023). I consider the claimant's own version of events is such that there are no prospects of success of succeeding in this unlawful deductions from wages complaint which seeks to re-write history, namely to retrospectively consider that she was in fact suspended during the period May to December and was therefore entitled to full pay, which is plainly not sustainable.

Employment Judge JM Wade
2 November 2023