



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr. V. Gorret

**Respondents:** Discovery Communications Europe Limited

**London Central**  
**Employment Judge Goodman**

**11 November 2023**

## JUDGEMENT

The claims are struck out under rule 37 because the claimant has not complied with orders and the claims are not actively pursued.

## REASONS

1. The remaining claims in these proceedings are of unfair dismissal, discrimination because of race and because of religion and belief. A claim in breach of contract was dismissed on withdrawal at an earlier stage. A claim of failing to make adjustment for disability failed because it was found at an open preliminary hearing that the claimant was not disabled.
2. The remaining claims are listed for final hearing starting on 22 November 2023. The respondent complains that the claimant has failed to engage with directions for the hearing and asks for the claims to be struck out under rule 37
3. Rule 37 states:

37.—(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—

- (a) that it is scandalous or vexatious or has no reasonable prospect of success;
- (b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;
- (c) for non-compliance with any of these Rules or with an order of the Tribunal;
- (d) that it has not been actively pursued;
- (e) that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim or response (or the part to be struck out).

(2) A claim or response may not be struck out unless the party in question has been

given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.

4. At a case management hearing on the 20th of September 2022, Employment Judge Glennie listed this claim for a five day hearing in June 2023, and made a series of case management directions.
5. The claimant did not comply with many of those directions. He said he had been confused by correspondence from the respondent, and had also had difficulty with emails. At a case management hearing on 3 May 2023 Employment Judge Plowright concluded that the case could not be ready for hearing in June. The final hearing was postponed the hearing to start 22nd November 2023, and the timetable was reset. Orders were made to agree a hearing bundle by 28 July 2023, and to exchange witness statements on the 22nd of September 2023. There was also to be an open hearing on the disability issue on 21 June, which in the event was postponed to the 21 August for lack of judicial resources.
6. The claimant had not meantime agreed a hearing bundle, or to exchange of witness statements. There was a further case management hearing before Employment Judge Nash on 25 September 2023. Her case management summary records that the claimant was resistant to directions being made. She emphasised to the claimant that he must comply with directions. The record shows that at that time the claimant had not disclosed recordings he had made of meetings, or WhatsApp messages or some emails, and was asking for further disclosure from the respondent. Employment Judge Nash reset the timetable. Disclosure and the bundle must be finalised by 16 October 2023, and witness statements must be exchanged on the 30 October 2023.
7. On 23 October the respondent wrote requesting strike out of the claims, because they had heard nothing from the claimant about documents or the bundle. On 27 October nothing had been heard from the claimant about this, and he was sent a strike out warning made by Employment Judge Smart, in the form of a letter stating that his claim might be struck out for failing to comply with orders made on 25 September 2023 and because it was not being actively pursued. He was to reply with any explanation by the 6 November.
8. The respondent wrote again on 8 November to say that he had not complied and had not replied. On the 9 November Employment Judge Nash issued an order requiring the claimant to respond by 10 am on 10th of November explaining why his claim should not be struck out.
9. The claimant has not replied to the tribunal and has not communicated with the respondent either. The respondent wrote at 10:02 am today asking for the claim to be struck out.

### Discussion and Conclusion

10. I have concluded the claims should be struck out. The claimant is not represented. However, the nature of the orders and why they are made has been explained to him at several case management hearings. He should know by now what is required and why it is required. He has also been told firmly that he must comply. His deadlines have been extended. He has been given an opportunity to explain. He has not responded to the respondent or to the tribunal.
  
11. Failure to comply with the orders places the respondent at severe disadvantage in preparing for the hearing. Disclosure is not complete because the claimant has not disclosed relevant documents which he says are in his possession. That is not just – parties are obliged to disclose everything relevant, whether it is to their advantage or not. That means the respondent may have to revise their witness statements if the claimant decides to disclose documents later. It rules out an alternative solution, which is to treat the respondent's bundle as final and require the respondent to disclose statements but password protected until the claimant discloses his. The claimant has given no indication that he has a witness statement to disclose, or why he is not ready, or when he may be ready. The tenor of his discussion with Employment Judge Nash suggests it is not question of some difficulty or delay, but a refusal to consider that directions apply to him at all. The claimant's failure to comply would cause injustice to the respondent. The hearing might have to be postponed. The claimant might decide not to attend at all. The considerable costs of preparing for the hearing, would be wasted. The tribunal could make an order that the claimant pay costs. I do not know his means, but he may well not be able to pay any order made, so the respondent would still be left with a substantial bill to pay. So the claims should be struck out for failing to comply with orders, and also because the claimant's lack of engagement suggests it is not being actively pursued.
  
12. I heed the overriding objective to deal with cases justly and fairly. Given the delay and cost to the respondent facing a five-day hearing, not knowing if the claimant will comply, or even attend the hearing, and the absence of any communication from the claimant as to why he has not complied, despite explanation and warning, I conclude that striking out the remaining claims is the just solution.

Employment Judge Goodman  
10 November 2023

ORDER AND REASONS SENT to the PARTIES ON

10/11/2023

FOR THE TRIBUNAL OFFICE