



EMPLOYMENT TRIBUNALS

Claimant: Mr A Jevstafjevs
Respondent: Monolith (UK) Ltd
Heard at: East London Employment Tribunal (by CVP)
On: 3 November 2023
Before: Employment Judge C Lewis

Appearances

For the Claimant: In person
For the Respondent: Ms G Patch – solicitor

Russian interpreter: Mrs E Sharman (joined at 10:30 am)

JUDGMENT

1. The complaint that the claimant was unfairly dismissed is struck out.
2. The complaint that the claimant was discriminated against because of his disability is struck out.

REASONS

Unfair dismissal – claim 3203852/2022

1. The claimant complains of unfair dismissal.
2. Section 108 of the Employment Rights Act 1996 requires a claimant to have not less than two years service to make an unfair dismissal complaint.
3. The claimant was employed by the respondent for less than two years.
4. Therefore the claimant is not entitled to bring such a complaint.
5. The claimant has failed to give an acceptable reason, despite being given the opportunity to do so, why the complaint should not be struck out.
6. Accordingly, the complaint of unfair dismissal is struck out.

7. The claimant's other complaints in claim number 3203852/2022 are not affected by this judgment.

Disability discrimination – claim 3204308/2022

8. The claimant also complains of disability discrimination.
9. Section 6 of the Equality Act 2010 defines disability as a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities. Schedule 1 of the Equality Act 2010 defines long-term as, having lasted 12 months, being likely to last 12 months, or likely to last the rest of the life of the person affected.
10. The claimant has provided medical evidence to show that he suffered an impairment (i.e back injury and associated pain) between 4 January 2022 and 22 June 2022 when he completed his rehabilitation: a period of just under 6 months. He confirmed that he has no further evidence to establish that his impairment was long term, i.e lasted 12 months or was likely to last 12 months, and confirmed that he completed his rehabilitation as soon as he could because he needed to be able to get back to work.
11. The claimant has failed to give an acceptable reason, despite being given the opportunity to do so, why the complaint should not be struck out. I am satisfied that the Claimant's impairment therefore does not meet the definition of long-term required under the Equality Act 2010 and that there is no reasonable prospect of him being able to establish that he is a disabled person for the purposes of that Act.
12. Accordingly the claim for disability discrimination is struck out, claim number 3204308/2022 is dismissed in its entirety.

**Employment Judge C Lewis
Dated: 6 November 2023**