



EMPLOYMENT TRIBUNALS

Claimant: Mr Hitesh Kumar Lakkad
Respondent: S & H Wholesale & Distribution t/a Max Distribution Ent Ltd

RECORD OF A PUBLIC PRELIMINARY HEARING

Heard at: Watford **On:** 18 September 2023
Before: Employment Judge Alliott (sitting alone)

Appearances

For the claimant: In person
For the respondent: Mr I Hurst (solicitor)

JUDGMENT

The judgment of the tribunal is that:

1. The claimant's claim against the respondent is struck out.

REASONS

1. This public preliminary hearing was ordered by myself on 20 June 2023 to determine the following issues:-
 - 1.1 Any application for a strike out order and/or a deposit order.
 - 1.2 Further case management orders may be made.
2. The claimant presented his claim on 20 July 2022. In it he ticked the boxes in section 8.1 for unfair dismissal, age, race and religion or belief discrimination and a claim for a redundancy payment. The claimant asserted that his employment began on 1 October 2021. In section 8.2 he refers to his employer.
3. Obviously enough, the claimant did not have sufficient continuous service to bring a claim for unfair dismissal.
4. In my judgment, the claim was close to being in a form which cannot sensibly be responded to but was nevertheless accepted.

5 In its response, the respondent disputed that the claimant was an employee and asserts that he was engaged as a Sales Commission Agent.

6 For obvious reasons, by an order made on 22 February 2023 and sent to the parties on 5 March 2023, the claimant was ordered to send to the employment tribunal and the respondent a list, in date order and numbered paragraphs, of each event of age discrimination or race discrimination, saying for each event:

- “1. What happened.
2. When it happened.
3. Which respondent was responsible for it.”

7 As noted before, religion/belief was not specified.

8 On 17 March 2023 the claimant purported to comply with that case management order. The claimant may also have sent this document on 15 March 2023. As I set out in my case management summary from 20 June 2023, in my judgment, that document is largely incoherent and lacks the detail that it ought to have had.

9 On 20 June 2023 a preliminary hearing was heard in front of myself. As recorded, I explained to the claimant that it was vital that he set out all information in support of his assertion that he was an employee or a worker, each act that he complains about as discrimination and full details of the shortfall in commission payments he is alleging.

10 Consequently I ordered the claimant as follows:-

“1. By 4pm 18 July 2023 the claimant must send to the tribunal and the First Respondent a document setting out the following:-

1.1 Full details of why the claimant says he was an employee or worker of the First Respondent, including:

- (ii) What his agreement with the First Respondent was.
- (iii) How the claimant was paid.
- (iv) Whether his pay was subject to tax and National Insurance deduction.
- (v) Whether he was paid expenses.
- (vi) Who supplied any equipment he used in his work.
- (vii) Whether the First Respondent was obliged to provide him work and whether he was obliged to undertake that work.
- (viii) Where he worked.
- (ix) Whether the respondent directed him how to do his work.

2. Full details of each alleged act of discrimination including:

- 2.1 What was said or the gist of what was said.
 - 2.2 What was done or not done.
 - 2.3 Who said or did what is being complained about.
 - 2.4 When it happened.
 - 2.5 Where it happened.
 - 2.6 Whether anyone else was there to witness it.
 - 2.7 Why it was the claimant says it was because of his race and/or age and/or religion and belief.
 - 2.8 Full details of his claim for unpaid commission, including the amount of commission he says he was entitled to and how much he was actually paid.”
- 11 The claimant showed me a number of emails that he says he sent in response to those orders.
- 11.1 Firstly, an email sent on 27 June 2023. This refers to orders he took and an amount of orders and complains about lack of access to an app.
 - 11.2 An email dated 30 July 2023. In it he asserts that he was a worker. He complains about not being paid his commission and makes general assertions of discrimination.
 - 11.3 An email dated 15 July. The claimant goes into his difficulties with his housing and again makes very general assertions of discrimination that fall far short of being able to understand what his claim concerns.
- 12 In my judgment, the claimant has had three opportunities to set out his claims. Firstly, in his claim form. Secondly, in response to the case management order of Employment Judge Lewis. Thirdly, in response to the case management order of myself. I have taken into account that the claimant is a litigant in person but in my judgment, the claimant has failed to comply with orders of the tribunal on two occasions and that in doing so the manner in which he has conducted the proceedings has been unreasonable.
- 13 I considered at this hearing whether any useful purpose would be served by ordering the claimant yet again to particularise his claim. I endeavoured to see if it was possible to articulate even some of the matters that the claimant was complaining about in terms of what, when, where and whom. I noted down that the claimant made long complaints about being made homeless, difficulties with landlords, housing issues, VAT fraud allegations, bribery of the police and local authority housing officials, money laundering, human trafficking, modern slavery, no commission being paid and an allegation of corruption against the respondent’s solicitor. In my judgment, it was not possible to identify the specific complaints of discrimination that the claimant was seeking to litigate. Further, there was a complete and utter absence of any detail of commission claims.

- 14 I concluded that the prospects of this claim ever being in a triable format were negligible. I do not consider that any lesser sanction than strike out would achieve anything. Consequently, I determine to strike out the claim pursuant to Rule 37 Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013.

Employment Judge Alliott

Date: 4 October 2023

Sent to the parties on:

27 November 2023

For the Tribunal: