



EMPLOYMENT TRIBUNALS

Claimant: Mr DA Fereday

Respondent: Mammoet UK Limited

19 December 2023

BEFORE: Employment Judge Shotter

JUDGMENT

The judgment of the Tribunal is:

1. The claimant 's claims for constructive unfair dismissal brought under the Employment Rights Act 1996 as amended, and disability and age discrimination complaints brought under the Equality Act 2010 are struck out.
2. The final hearing listed for 5-days starting on 15 January 2024 is taken out of the list and will not be re-listed.

REASONS

1. By strike out warning sent to the claimant on 29 November 2023 the Tribunal gave the claimant an opportunity to make representations or to request a hearing by 13 December 2023, as to why the claim should not be struck out because;
 - the manner in which the proceedings have been conducted by or on behalf of the claimant has been scandalous, unreasonable or vexatious;

- the claimant had not complied with case management directions as laid out in the respondent's email of 17th November 2023 and 18 December 2023.
 - the claimant had not complied with the Orders of the Tribunal dated 7 August 2023 and the strike out warning dated 29 November 2023.
 - it has not been actively pursued and a fair trial is not possible.
2. The claimant has failed to make representations in writing why this should not be done or to request a hearing.
 3. The claimant has not participated fully in this litigation. At the 7 March 2023 preliminary hearing the claimant joined late and could not meaningfully take part. On the 12 June 2023 preliminary hearing the claimant joined late and due to his inability to take part it was not possible to make progress. At the 7 August 2023 preliminary hearing the claimant was ordered to provide further information and the order was set out in a Record of Preliminary Hearing sent to the parties on the 7 August 2023. The claimant did not provide the information as ordered.
 4. On the 17 November 2023 the respondent applied for a strike out on the basis of the claimant's non compliance and on the 29 November 2023 the claimant was sent a strike out warning.
 5. The final hearing is listed for 5-days starting the 29 January 2024. The case is not ready for trial due to the claimant's failure to comply with case management orders. I have today taken the final hearing is taken out of the hearing list as a fair hearing cannot take place directly due to the claimant's default. It is not possible to re-list the final hearing with an allocation of 5-days until 2025, and a fair hearing cannot take place either next year or after a substantial delay directly as a result of the claimant's non-compliance. There have been 3 case management hearings; the first on 7 March 2023, the second on 12 June 2023 and third on 7 August 2023 and despite being ordered to do so, the claimant has taken no meaningful steps in the litigation and failed to provide the further information ordered without explanation or making contact with either the Tribunal or respondent despite the strike out warning.
 6. The claims are therefore struck out.

Employment Judge Shotter 19.12.23

JUDGMENT SENT TO THE PARTIES ON

28 December 2023

FOR THE TRIBUNAL OFFICE

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