



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case Number: 4102450/2014

Ms K Cunningham

Claimant

East Ayrshire Council

Respondent

JUDGMENT

The claim is struck out under rule 37 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 on the grounds that the claim has not been actively pursued in terms of rule 37(1)(d)

REASONS

1. The claim is for equal pay. The claimant's solicitor withdrew from acting on her behalf on 25 May 2023. The respondent had informed the claimant's representative that they had no proposal to make in settlement of the claim. It is the respondent's position that the claimant was earning more than her comparator during the relevant period of the claim.
2. The Tribunal contacted the claimant and requested that she confirm whether she intended to proceed with her claim unrepresented or to appoint another solicitor. The claimant confirmed on 2 June 2023 that she intended to proceed with her claim as an unrepresented party.
3. The claimant was asked by the Tribunal to respond to the respondent's position in relation to her comparator. The claimant responded by referring to the rate of pay by employees in the same role but working for a different local authority. The respondent contested the validity of the above comparator on the basis that they were not employed by the same employer. The claimant was asked by the Tribunal to identify a comparator in the respondent's employment. The claimant was asked to respond to the Tribunal by 9 August 2023. The claimant did not reply and a reminder was issued on 17 August 2023 requesting a reply by 31 August 2023. The claimant did not reply and a reminder was issued on 5 September 2023 requesting a reply by 11 September 2023.
4. The claimant did not reply and on 20 September 2023, the Tribunal sent a warning to the claimant that the Employment Judge was considering striking out her claim on the grounds that it had not been actively pursued in terms of Rule 37(1)(d) of the Employment Tribunals Rules of Procedure 2013. The claimant responded to the above warning on 20 September 2023 to confirm that she was unable to provide the information required by the Tribunal. The Tribunal enquired by letter dated 4 October 2023 whether the claimant wanted to attend a hearing to discuss her claim and how best to proceed. The claimant was asked to reply by 18 October 2023.

5. The claimant did not reply and a further warning was issued to the claimant on 2 November 2023 that an Employment Judge was considering striking out her claim under Section 37(1)(d) of the Employment Tribunals Rules of Procedure 2013. The claimant was allowed until 23 November 2023 to confirm that she disagreed with her claim being struck out. No response has been received from the claimant.

6. In all the circumstances, the Employment Judge considers it is in accordance with the overriding objective to strike out the claim on the grounds that the claim has not been actively pursued in terms of Rule 37(1)(d) of the Employment Tribunals Rules of Procedure 2013.

Employment Judge: Frances Eccles
Date of Judgment: 13 December 2023
Date sent to parties: 13 December 2023