



## EMPLOYMENT TRIBUNALS

Claimant: Ms Ashleigh Adjei-Agyekum  
Respondent: Benugo Ltd

Heard at: London Central (by CVP)

On: 23/1/2024  
Before: Employment Judge Mr J S Burns

### Representation

Claimant: in person  
Respondent: Mr Yousaf Mahmood (Litigation Consultant)

### JUDGMENT

All the claims under both the above case numbers are struck out.

### REASONS

1. I read a witness statement from Sylwia Demianiuk dated 10/10/23 and was referred to an OPH bundle of 129 pages. The Claimant logged on to the hearing but declined to turn on her camera "because of her anxiety", which arrangement I accepted. I checked that the Claimant had the relevant documents and explained the purpose of the OPH and the procedure to be adopted during the OPH which would include the Claimant being permitted to cross-examine Ms Demianiuk before I received oral submissions. However shortly after Ms Demianiuk had taken the oath and confirmed her witness statement the Claimant logged out of the CVP hearing and took no further part. Mr Mahmood made oral submissions based on the written application referred to below.
2. The Claimant was employed part-time by the Respondent from 16/4/22-13/6/23 on which latter date she resigned,
3. The issued her first claim for age race and disability discrimination on 31/1/23.
4. She included in that first ET1 a claim for "*breach of employers statutory duty of care...(based on negligence)*" which is not within the jurisdiction of the Tribunal and for that reason alone would be struck out in any event.
5. She issued a second ET1 on 30/5/23 for victimization and under the Part-Time Workers Regulations.
6. She included in that second ET1 claims for "Data Protection Act" which is not within the jurisdiction of the Tribunal and "Breach of ACAS Code" which does not create a free-standing cause of action, and which for those reasons would be struck out in any event.
7. On 10/10/23 the Respondent applied for all the claims to be struck out under Rule 37(1) under which rule claims can be struck out on one or more of the following grounds: scandalous or vexatious or has no reasonable prospect of success (rule37(1)(a)) ; manner in which proceedings conducted has been scandalous, unreasonable or vexatious (rule 37(1)(b)) , non-compliance with the Tribunal's orders (rule 37(1)(c)), and it is no longer possible to have a fair hearing (rule37(1)(e)).

8. The reference to the Claimant not complying with a direction refers to her persistent and continuing failure to comply with EWJ Gibb's order dated 22/6/23 that by 21/7/23 she should produce an impact statement in relation to her disability discrimination claim. Even today she has failed to produce such a statement or anything purporting to be one. For that reason I would strike out the disability discrimination claims in any event.
  
9. The Claimant has conducted her claims generally scandalously, vexatiously and unreasonably by making and sending numerous racist, foul, abusive and threatening messages to the Respondent and in particular to those of its employees who have been charged with trying to respond to and defend her claims. Examples are as follows:
  - On 26 May 2023, the Claimant sent an email with a voice note entitled "Oxford St.m4a", within the recording the Claimant is generally abusive, states "*are you stupid*" and she accuses the Respondent of corroborating with "*two other white people*".
  - On 30 May 2023, the Claimant sent an email to the Respondent's HR team, stating: "*I am going to say this one last time to the white employees (especially Robert Taylor) cc'd in this email...*" The Claimant attached several photographs and images associated with the black lives matter campaign, as well as completely irrelevant photographs of celebrities including Marilyn Monroe, Kim Kardashian and Elvis Presley (etc) to the correspondence.
  - On 7 June the Claimant sent recordings to Sylwia Demianiuk, the Respondent's HR Business partner, entitled "All souls Ave.m4a and Todays talk.m4a" stating "*don't you dare ever as a white privileged woman who bogled something ... have the audacity to say I don't believe you*" and "*you told another black woman not to reach out to me*" and addresses the Respondents as "*you white people*".
  - A further recording titled "All souls Ave.m4a" was sent to Sylwia Demianiuk stating "*you tread very lightly as a privileged white woman trying to get into a battle with a black woman who is disadvantaged*", calling her "*stupid*" and an "*advantaged white woman*".
  - On 25 September 2023, the Claimant sent another voice note to Sylwia Demianiuk entitled "emotional outlet.m4a", referring to the Claimants former manager as a "*fool, moron and stupid*", and to Mr Mahmood as "*the other idiot that you hired..*". The Claimant threatened Sylwia Demianiuk by stating "*don't you dare in the presence of a young black girl ever try to make her feel to hold her tongue, especially when a pathetic white woman like you has to put her through an ordeal.... When you don't know what it is like to live with a target on your back, to be killed, to be buried in the ground, like you are such a stupid cunt...*" and "*you are so lucky I did not slap the shit out of you*". She also made references to "*mediocre white self*", "*disgusting white trolls*", "*basic white ones*", "*you are a sick perverted person and are a disgrace*", "*you are so lucky the back hand slap of me, an African woman slap did not connect with your face*".
  - On 7 October 2023, the Claimant sent a voice note to the Respondent's site manager where the Claimant had worked, stating "*How dare you point at me you stupid fucking prick, em, and yes I can swear,... use your stupid brain, your brain does not work in the kind of ... ways, you are very unclever.*" She addresses him as a "*dimwhit*", calls Sylwia Demianiuk "*a dumb fuck*", and refers to "*fucking dickhead Gulshan*". She states "*just because you look like a white man the stupid white woman was going to be on your side ... that dumb bitch doesn't know what she is doing that is why she makes so many mistakes.*"
  - The Claimant in correspondence to Mr Mahmood accused him of twisting and fabricating her words and she referred to an ET as "*a silly woman*".
  
10. The Respondent's witness Ms Demianiuk gave sworn and unchallenged evidence about these matters in her written statement which she confirmed on oath, also setting out the effects of the Claimant's conduct on her, which includes the following:

*"I now have genuine concerns that if I do attend to give evidence against the Claimant her campaign of aggressive and intimidating behaviour will continue and she will target us even more. ...The Claimant's behaviour has also affected my personal life as I am distressed*

*that she will continue her campaign of hateful conduct in ways which will affect my family life. The multiple messages that we have received from the Claimant are very alarming, threatening and intimidating."*

11. The Claimant has been conducting the proceedings unreasonably and she has been abusing intimidating and harassing the Respondent's witnesses, which interferes with the Respondent's right to defend the claim without fear, harassment and gratuitous abuse.
12. In Grainford Care Homes Ltd v Tippe and Roe [2016] EWCA Civ 382, where a Respondent owner's son was caught on video intimidating a witness, the witness was fearful of giving evidence resulting in a Tribunal finding that a fair trial would not be possible. In Wong v Royal Mail Group Ltd ET/2500163/2022 it was noted that witness intimidation is an obvious example of "scandalous, unreasonable or vexatious" conduct that it tends to subvert the process of justice and has the potential to impair the fairness of the trial.
13. It is appropriate and in accordance with the overriding objective to strike out all the claims because under rule 37(1)(a), the claims are scandalous or vexatious, under rule 37(1)(b) the manner in which the proceedings have been conducted by the Claimant have been scandalous, unreasonable or vexatious, and under rule 37(1)(e) on the ground that it is no longer possible to have a fair hearing in respect of the claim or response.

Employment Judge J S Burns

23/1/2024

For Secretary of the Tribunals

Date sent to parties : 23/01/2024

---