



EMPLOYMENT TRIBUNALS

Claimant: Mr K B Jeyapackiam
Respondent: Cambridgeshire and Peterborough NHS Foundation Trust
Heard at: Bury St Edmunds (via CVP)
On: 11 March 2024
Before: Employment Judge Graham

Representation

Claimant: Did not attend
Respondent: Ms T O'Halloran, Counsel

JUDGMENT having been sent to the parties on 12 March 2024 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

1. The private preliminary hearing for case management listed for 11 March 2024 had been agreed with the parties at a previous private preliminary hearing on 11 November 2023 which the Claimant attended.
2. On Saturday 9 March 2024 the Claimant wrote to withdraw his race discrimination and victimisation complaints.
3. On Sunday 10 March 2024 the Claimant withdrew the remainder of his complaints in full.
4. I was not made aware of the Claimant's correspondence until the hearing started on Monday 11 March 2024. The Respondent also forwarded the Tribunal a further email from the Claimant of 11 March 2024 at 9:49am where he again confirmed that it was his intention to withdraw his claims.
5. The Claimant did not attend the preliminary hearing. The Respondent attended and was represented by counsel.

6. Given the contents of the Claimant's emails, I dismissed the Claimant's claim. This was done pursuant to Rule 52 of the Employment Tribunal Rules of Procedure which provides:

Dismissal following withdrawal

52. Where a claim, or part of it, has been withdrawn under rule 51, the Tribunal shall issue a judgment dismissing it (which means that the claimant may not commence a further claim against the respondent raising the same, or substantially the same, complaint) unless—

(a) the claimant has expressed at the time of withdrawal a wish to reserve the right to bring such a further claim and the Tribunal is satisfied that there would be legitimate reason for doing so; or

(b) the Tribunal believes that to issue such a judgment would not be in the interests of justice.

7. There is a presumption that proceedings will be dismissed upon withdrawal unless the circumstances under paragraphs (a) or (b) apply.
8. The Claimant had chosen not to attend the hearing therefore I did not hear from him, and there was no indication that the circumstances under Rule 52(a) applied. There did not appear to be any reason why a dismissal judgment would not be in the interests of justice. Accordingly, the claim was dismissed in full.
9. To the extent that the Claimant is seeking reasons for the decision to list the matter for a further hearing to consider the Respondent's application for costs, I am not required under Rule 62(1) to provide reasons for that as it was not a decision on a disputed issue. I have yet to make a decision on the issue of costs. The Claimant chose not to attend the hearing and in doing so he did not dispute the Respondent's request to list this matter for a further hearing to consider an application it had yet to make for costs against the Claimant.
10. Nevertheless, it will assist the Claimant to know that the decision was made to list this for a further hearing because (i) the Respondent had yet to make a formal application for costs; and (ii) the Claimant had chosen not to take part in the hearing of 11 March 2024 and therefore he may not have been aware that an application for costs was going to be made.
11. It was deemed in the interests of justice, and in fairness to the Claimant, for that application to be made in writing, copied to the Claimant, and that he be given the opportunity to respond, and for the matter to be considered at a further hearing which has been listed for 30 April 2024.

Employment Judge Graham

Date 23 March 2024

Case No: 3304930/2023

REASONS SENT TO THE PARTIES ON

27 March 2024

FOR THE TRIBUNAL OFFICE