Neutral Citation Number: [2024] EAT 67

Case Nos: EA-2022-000688-AT
EA-2022-000689-AT
EA-2022-001278-AT

EMPLOYMENT APPEAL TRIBUNAL

Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 30 April 2024

Before:

HIS HONOUR JUDGE JAMES TAYLER

- -

Between:

MR LORENZO RAMOS

Appellant

- and –

(1) NOTTINGHAMSHIRE WOMEN'S AID LIMITED
(2) MS A J BLOOMER

Respondents

- -
- -

MUKHTIAR SINGH, ELAAS Representative, and the Appellant in person

RULE 3(10) APPLICATIONS – APPELLANT ONLY

Hearing date: 24 April 2024

- -

JUDGMENT

HIS HONOUR JUDGE JAMES TAYLER:

1. Mr Lorenzo Ramos, also known as Lorenzo Garcia, is a serial litigant in the Employment Tribunals and the EAT. His modus operandi has been to find advertisements on the internet, that appear to be discriminatory, for jobs up and down the British Isles, and then bring claims in the Employment Tribunals, often without having applied for the job. It might be said that employers who do not take care with their job advertisements have only themselves to blame. But Mr Ramos does not act for the public good, he claims loss of earnings and injury to feelings. The wide geographical scope and variety of roles for which Mr Ramos applies puts in question whether he really wishes to be appointed. That question was answered firmly in the negative by the Employment Tribunal in Scotland in **Mr L Ramos v Lady Coco Ltd t/a Shamela's Fresh Hot and Cold Food** 4110531/2021 where the three members of the Employment Tribunal unanimously concluded (para 32):

> "In short, the Tribunal was satisfied from the evidence presented that the claimant had no genuine desire of applying for the role the respondent had advertised. He was solely using the Tribunal process to seek money from the respondent."

2. Mr Ramos appealed. At the sift stage His Honour Judge Barklem was of the opinion that there were no reasonable grounds for bringing the appeal. Mr Ramos challenged that decision pursuant to Rule 3(10) **EAT Rules 1993** (EAT Rules). The application was unsuccessful. Mrs Justice Eady DBE, President, held in **Mr Lorenzo Ramos v Lady Coco Limited ta Shamela's Fresh Hot And Cold Food** [2023] EAT 99:

> "74. For the reasons I have provided, I am satisfied that the proposed grounds of appeal identify no arguable question of law. Moreover, as I have noted, most of the points raised have been addressed in some detail either in the ET's decision on the claim and/or in its subsequent judgment on the second reconsideration application; as the claimant is aware, his appeal against that decision has been ruled to be totally without merit.
>
> 75. In my judgement, the same can be said of the claimant's two appeals before me. The grounds of appeal identify no question of law such as would engage the jurisdiction of the EAT (see section 21 **Employment Tribunals Act 1996**) and I reject the application made under rule 3(10) **EAT Rules** and dismiss these appeals. More than that, however, it is apparent that, by these appeals, the claimant has sought to go behind the permissible findings of fact of the ET, which informed its decision on the merits of his claim, and against the exercise of its discretion in making the PTO. That is properly to be described as an abuse of the appellate process. As the claimant has

> acknowledged, he is a serial appellant before the EAT (in the pre-hearing correspondence earlier referenced in this judgment (see, e.g. paragraph 7 above), the claimant referred to the number of appeals he is pursuing in this jurisdiction); he is therefore aware that an appeal can only be pursued on a point of law. The claimant has failed to take on board the further explanations provided by the ET in its judgment on the second reconsideration application, and has failed to engage with the reasons provided by HHJ Barklem at the rule 3(7) stage. He has sought to pursue grounds of appeal that are totally without merit and I duly so record.
>
> 76. Yet further, the claimant's conduct of these proceedings has been abusive of the process of both the ET and EAT. I have already set out my findings in relation to the claimant's conduct of these appeals but the same can also be said in relation to his making of persistent applications before the ET, demonstrating no engagement with the earlier reasoning provided to him for the decisions he asked to be reconsidered. This is rightly to be described as vexatious behaviour and I consider it appropriate to refer my ruling on these appeals to the Registrar for consideration as to whether there might be grounds for the claimant's litigation conduct to be considered by the Lord Advocate."

3. Mr Mukhtiar Singh represented Mr Ramos pursuant to the ELAAS scheme at this hearing in respect of limited aspects of the grounds of appeal. He also made a valid overarching point, that this appeal must be considered on its merits not simply by relying on the history of failed claims and appeals. I agree. I refer to the previous appellate authorities as they demonstrate that many of the arguments that the claimant seeks to run in this appeal have previously been considered and dismissed in comprehensive fashion without Mr Ramos taking any notice. For example, Mr Ramos persists in the argument that to succeed in a discrimination claim there is no requirement that a person who applies for a job has any genuine interest in being appointed to it, despite the rejection of this argument as being unarguable by the President in **Lady Coco**, in part relying on the judgment of Mrs Justice Williams after a full hearing of an appeal in which Mr Ramos adopted his alternative guise: **Mr L Garcia v The Leadership Factor Limited** [2022] EAT 19.

4. Furthermore, Mr Ramos/Garcia's modus operandi is relevant to this appeal because the Employment Tribunal took account of his repeated previous failed claims in the Employment Tribunal when concluding there was little prospect of him establishing that he genuinely wanted the job that was advertised.

5. In the Employment Tribunal the claimant refused to answer questions about whether he was the person who had brought the previous Employment Tribunal claims. He was less reticent today. He confirmed that he was the appellant in **Lady Coco** and **Leadership Factor Limited** and the claimant in the claims referred to by the Employment Tribunal:

> "23. The claimant's name, as stated on the claim form, is Mr Lorenzo Ramos. During the hearing, he offered me his Spanish passport which showed his name as Lorenzo Garcia Ramos. The claimant explained that he sometimes uses his middle name and sometimes uses his surname.
>
> 24. The Respondent drew my attention to a number of Judgements of the Employment Tribunal in which the claimant was Mr L Garcia. At the earlier case management hearing before Employment Judge Ahmed, the claimant said that his name was not Garcia and then had subsequently refused to confirm or deny whether it was.
>
> 25. The Judgements relating to claims brought by Mr L Garcia [pages 120 – 167] relate to discrimination complaints concerning applications for a variety of disparate roles in various locations.
>
> 26. There were some marked similarities between the claimant and the claimant in those Judgements, for example in one case the claimant had the same date of birth as Mr Ramos, and, although fluent in English, had a strong French accent, as Mr Ramos accepted in evidence that he does. In two other cases, he worked as a market researcher, as Mr Ramos told me he currently does, when giving evidence at the hearing before me.
>
> 27. The claimant refused to answer any questions about the earlier proceedings brought by Mr L Garcia. The reason he gave for this was to protect him from victimisation under section 27 of the Equality Act 2010. However, the claimant's evidence was such that I believe he is the same person who brought the earlier claims using the name Mr L Garcia."

6. Mr Ramos found an advertisement on an internet search for a "female finance and admin worker" posted by the first respondent, a registered charity which runs a women's refuge and provides services to women, young people and children in the North Nottinghamshire area. He did not apply for the role, but brought a claim of sex discrimination that was set down for a Preliminary Hearing to consider strike out and the possibility of making a deposit order.

7. Employment Judge Welch rejected the application for strike out, but made a deposit order against Mr Ramos. Employment Judge Welch refused an application, made just before the hearing, for a deposit order against the respondent.

8. Employment Judge Welch started by setting out Mr Ramos' repeated failures to comply with orders and cooperate with the Employment Tribunal and the respondents; paras 4-17.

9. Employment Judge Welch set out her conclusions clearly and concisely:

> "35. I considered, taking the claimant's case at its highest, the prospects of him succeeding in his claim for sex discrimination against the first and/or second respondents.
>
> 36. I have serious doubts over whether the claimant will succeed in his sex discrimination claim. Firstly, I consider that the claimant will have great difficulty in convincing a tribunal that he has been treated less favourably than an actual or hypothetical comparator. The claimant will struggle, in my view, to show that he was genuinely interested in applying for a part-time, relatively low-paid role which is such a distance from his home in Hounslow.
>
> 37. The claimant does have a degree in accountancy but I still consider that he is unlikely to be able to satisfy a Tribunal that he wished to work in this role, when he took no active steps to obtain the application pack, or to find out more about it, or indeed find out the reason why the first respondent had advertised for a female in the way it had.
>
> 38. Additionally, even if the claimant was able to show that he was genuinely interested in applying for the role, I consider that the claimant was highly unlikely to have been successful in any application for a role within the first respondent's organisation.
>
> 39. Finally, I have serious doubts over whether the claimant will be able to show that he suffered injury to feeling from reading the job advertisement online and being deterred from applying.
>
> 40. I, therefore, have to consider whether the claimant has no reasonable prospects of success. I noted that this was a high threshold, particularly for discrimination cases, in light of the case law as referred to above. In my view, this case almost passed the threshold for no reasonable prospects of success, however, I considered that it did not quite do so. Therefore, I do not strike out the claim for sex discrimination on the basis that it has no reasonable prospects of success.
>
> 41. I then considered whether the claim should be struck out on the basis that it was vexatious. It was clear to me that the claimant is the same person as Mr L Garcia in the claims to which I was referred by the respondents during the course of this preliminary hearing. Therefore, I have reservations that the claimant may be seeking to use the Tribunal process to obtain settlement monies for discrimination claims brought in respect of various job advertisements rather than bringing legitimate claims for discrimination. However, I do not consider that there was sufficient evidence before me at this stage to validly strike out his claim on the basis that it was vexatious.
>
> 42. In considering whether a deposit order should be made in order to allow the claimant to continue with his sex discrimination claim against the respondents, I recognise that this is a lower threshold than that for striking out

> claims. I have no hesitation in making a deposit order in this case against the claimant on the basis that his claim has little reasonable prospects of success.
>
> 43. I consider that the claimant has little reasonable prospects of success for the reasons referred to above in considering the strike out application. Namely, due to the difficulty he faces in showing that he has been considered less favourably because of his sex. As stated above, I consider he will have difficulty in showing that he was genuinely interested in the first respondent's role, and also feel that he will be unlikely to show that he would have been successful in the role. He is unlikely to be able to show that he suffered injury to feeling from reading the advertisement. Additionally, I consider that the respondents are likely to be able to successfully defend the claim by falling within the exception of being an occupational requirement as required by paragraph 1 of schedule 9 to the Equality Act 2010."

10. The claimant appealed against the imposition of a deposit order against him, the refusal of reconsideration and the refusal to make a deposit order against the respondent.

11. I will deal first with the elements of the grounds of appeal that Mr Singh advanced in seeking to establish arguable grounds of appeal, in the best traditions of the ELAAS scheme. I am grateful for his clear, skilful and concise arguments.

12. The power to make a deposit order derives from rule 39 of the ET Rules:

> "(1) Where at a preliminary hearing (under rule 53) the Tribunal considers that any specific allegation or argument in a claim or response has little reasonable prospect of success, it may make an order requiring a party ("the paying party") to pay a deposit not exceeding £1,000 as a condition of continuing to advance that allegation or argument.
>
> (2) The Tribunal shall make reasonable enquiries into the paying party's ability to pay the deposit and have regard to any such information when deciding the amount of the deposit.
>
> (3) The Tribunal's reasons for making the deposit order shall be provided with the order and the paying party must be notified about the potential consequences of the order."

13. Mr Singh submitted that Employment Judge Welch's reasons for imposing the deposit order were inadequate and/or she had not taken all relevant information into account. This builds on paragraph 6.1 of Mr Ramos' grounds of appeal.

14. Even at a full hearing there is no requirement for an Employment Tribunal to refer to every piece of evidence and argument advanced – less so when conducting the high-level overall assessment of whether a complaint has little reasonable prospects of success. Employment Judge Welch had more

than adequate grounds for making the deposit order and was not required to consider each of Mr Ramos' assertions as to why he could have been interested in the role. Fundamentally, it was generous to accept that he had any prospect of establishing he was genuinely interested in the role. Employment Judge Welch was clearly entitled to conclude that the claim had little reasonable prospects of success. The reasons are more than adequate.

15. Mr Singh suggests that Employment Judge Welch erred in law in referring to her serious doubts as to whether "the claimant will be able to show that he suffered injury to feeling from reading the job advertisement online and being deterred from applying". Mr Singh contends that injury to feeling is a matter of remedy and is irrelevant to the question of whether there is little reasonable prospect of the claimant establishing liability. A deposit order can be made in respect of "any specific allegation or argument in a claim or response". One of the assertions in Mr Ramos' claim form is that he has suffered injury to feeling. Employment Judge Welch was unarguably entitled to consider the likelihood of his making out that assertion in making the deposit order.

16. Mr Singh argued that Employment Judge Welch adopted a balance of probabilities approach to the likelihood of success in the claim such that she considered that the claim had little prospect of success unless it was more likely than not that the claim would succeed. I do not accept this argument. Employment Judge Welch directed herself by reference to Rule 39 **ET Rules**, which she quoted in full. She referred to the relevant case law and stated "I consider that the claimant has little reasonable prospects of success". She unarguably applied the correct test. In her analysis Employment Judge Welch used words such as "serious doubts", "great difficulty", "struggle" and "unlikely to be able to satisfy a Tribunal"; but she came back to and applied the correct legal test. She was right to "have no hesitation in making a deposit order".

17. Despite the clarity with which the arguments were put by Mr Singh I do not consider they are arguable.

18. Mr Ramos did not withdraw any of the arguments in his notice of appeal and, as is his custom, he produced a further document on the morning of this hearing, setting out his response to the points made by Upper Tribunal Judge Stout when giving her opinion that there were no reasonable grounds

for bringing these appeals at the sift stage.

19. In "Part 1" of the grounds of appeal Mr Ramos asserts that Employment Judge Welch has not applied the law. Mr Ramos argues that there is an error of law because the substantive reasons for making the deposit order are in the Judgment rather than the deposit order. The deposit order has a summary of the reasons, but refers to the Judgment. The real reason Mr Ramos is raising this pedantic point is that he believes that if the reasons had been attached to the deposit order they would not have been published on the Employment Tribunal online register of Judgments. I can well imagine why Mr Ramos is keen that Judgments about his repeated job applications in the names of Ramos and Garcia should not see the light of day. However, I do not consider this point is arguable. Rule 39 requires that the reasons "shall be provided **with** the order". There is no absolute requirement that they be in the same document. The deposit order and judgment were provided together. There is nothing unusual in the procedure adopted by Employment Judge Welch. Commonly an application is made for strike out **or** a deposit order. A decision to make or refuse an application for strike out is a Judgment, because it is a determination of an issue that is capable of disposing of a claim: Rule 1(3)(b) **ET Rules**. When explaining why a complaint has not been struck out, it is relevant to explain why the conclusion was reached that the complaint had little reasonable prospect of success. I do not consider this ground is remotely arguable.

20. I have already dealt with the first section of "Part 2" of the grounds of appeal (paragraph 6.1). At paragraph 6.2 Mr Ramos challenges the conclusion that the respondent is likely to establish that it had an occupational requirement for a female employee. In the additional document produced this morning Mr Ramos notes that Judge Stout, when concluding that the challenge to the refusal of the deposit order against the respondent was unarguable, stated:

> "The question of whether an organisation such as the first respondent has a genuine occupational requirement for a particular role to be female (even if it also provides services to male victims of domestic violence) is a complex and sensitive issue that is inherently likely to require consideration of full evidence to resolve."

21. I agree with Judge Stout's analysis. Mr Ramos contends that this undermines the determination of the Employment Tribunal that the respondent is likely to establish the occupational

requirement. I consider that this is Mr Ramos' one good point. I accept that the occupational requirement issue would require careful consideration. However, this was only one of the reasons of Employment Judge Welch for making the deposit order. The fundamental point was that there would be little prospect of Mr Ramos establishing that he was genuinely interested in the role. That was more than a sufficient basis for making the deposit order.

22. In "Part 3" of the grounds of appeal Mr Ramos suggests that Employment Judge Welch was biased against him, because she made the errors of law referred to above, that I have decided are unarguable. He also asserts:

> "c) Judge Welch was biased against me because she imposed on me a Deposit order because I have maybe issued previous claims but not because of the merit of this current claim. This is confirms because she makes reference to my possible other claims in paragraphs 24, 25, 26, 27 and 41. In paragraph 27 she even make reference to similarities between my current claim and my possible other claims what she should not have done if she was really neutral."

23. Mr Ramos is disingenuous when he says "I have maybe issued previous claims" and referring to "my possible other claims". Mr Ramos knows that he has made multiple similar claims using the names Mr L Ramos and Mr L Garcia. Employment Judge Welch was fully entitled to take these previous similar failed claims into account when considering the likelihood that Mr Ramos was genuinely interested in the job, for which he did not apply.

24. Mr Ramos next asserts:

> "d) Because Judge Welch did not have valid reasons for having imposed on me a Deposit Order she should have been biased against me also because she imposed on me a Deposit Order also out of compassion for women victim of violence because she is himself [*sic*] a women."

25. Mr Ramos has no basis whatsoever for making this allegation that reflects very poorly on him.

26. In "Part 4" Mr Ramos asserts that the deposit order was "imposed on me because of victimisation". This point was considered by Mrs Justice Eady in **Lady Coco**:

> "56. Moreover, the ET's reference to those other claims could not amount to an act of victimisation. Putting to one side (i) the fact that the respondent was specifically arguing that the claimant was a serial litigant who brought proceedings such as this in bad faith, as he never had any interest in the positions in issue, and (ii) the absence of any provable detriment, given that the ET found as a fact that the claimant was not interested in the job in

> question in this case, this was an issue being raised in legal proceedings, on which the ET was making a judicial determination - there could be no breach of the EqA in such circumstances. As for the suggestion that the claimant was seeking to protect himself against "*persecution and breach of privacy*": (i) he had chosen to pursue claims before the ET, there could be no question that the respondent had been seeking to persecute the claimant, and (ii) given the open justice principle and the fact that decisions on the claimant's claims will be publicly available (something of which the claimant is well aware, hence his objection to an earlier deposit order being available on the on-line register (a point referenced in his grounds of appeal)), there could also be no question of breach of privacy."

27. Reading the grounds of appeal in this appeal against the Judgment of Justice Eady in **Lady Coco,** it is clear that the word processor has done much of the heavy lifting because it is obvious that many of the grounds have been repeated. They have been maintained despite already having been found by the President of the EAT to be totally without merit.

28. In "Part 5" of the grounds of appeal Mr Ramos asserts that "Judge Welch does not have evidence". He repeated that argument at great length in the document he provided on the morning of this hearing. A similar assertion was rejected by Justice Eady in **Lady Coco**:

> "59. By his fourth and fifth grounds of appeal, the claimant contends that the ET had no evidence to support its decision that he was not deterred from applying for the advertised position by reason of the discriminatory content of the advert and/or failed to properly consider his evidence that demonstrated that some people might be deterred from applying in such circumstances. He says that the "*burden of proof is on employment judge Hoey to prove that I was not interested in the position and not to me to prove that I was interested in it*".
>
> 60. As a matter of law, the ET (and I note that the Employment Judge was sitting with lay members when determining the claimant's case) bore no "*burden of proof*"; rather it was for the claimant to establish facts from which the ET could conclude, in the absence of any other explanation, that he had suffered direct sex discrimination contrary to section 13 **EqA** (the first stage of the burden of proof provision under section 136 of the **EqA**)."

29. In "Part 6" of the grounds of appeal Mr Ramos asserts that Employment Judge Welch "has not followed the correct procedure". He repeats points previously made and asserts that his claim required hearing at a full hearing. I consider there is nothing of any merit in the points he makes. Had he paid the deposit he would have had the opportunity to have his case tested at a full hearing before a full panel, albeit with the costs risk that would have followed had the claim been dismissed for

substantially the reasons given by Employment Judge Welch.

30. I do not consider there was any arguable error in the refusal to make a deposit order against the respondent in circumstances where they would have almost certainly succeeded in their defence of the claim. I consider there is no arguable error in Employment Judge Welch refusing to reconsider her judgment.

31. I consider that there are no reasonable grounds for any of these three appeals. I have concluded that they are totally without merit.