



EMPLOYMENT TRIBUNALS

Claimant

Ms L Chivanga

v

Respondent

Allica Bank Limited

Heard at: Huntingdon (by CVP)

On: 13 May 2024

Before: Employment Judge M Ord

Appearances

For the Claimant: In person

For the Respondent: Ms M Tutin, Counsel

JUDGMENT on APPLICATION to STRIKE OUT

No Order is made on the Respondent's Application to strike the Claimant's case out. Unless Orders (in a separate document) have been made.

REASONS

1. This matter came before me today on the basis of the Respondent's Application to Strike Out the Claimant's claim for failure to comply with the Orders of the Employment Tribunal.
2. The history of the matter is set out in the Respondent's Application dated 18 January 2024. In summary the Respondent complains that the Claimant has failed to comply with the Orders of Employment Judge Brown made on 13 June 2023.
3. In particular, a lists of documents were to be exchanged with copies by 27 October 2023.
4. The Respondent complains that following an agreement to extend the date for disclosure of documents (at the Respondent's request) to 10 November 2023 the Respondent provided documents to the Claimant on that date but there was nothing received from the Claimant.

5. The Respondent sought confirmation that the Claimant had received their documents and asking for her documents on the next working day, 13 November 2023, again on 20 November and again on 28 November. No response appears to have been received to any of those communications.
6. On 5 December 2023, the Respondent told the Claimant that unless the relevant documents were provided by 12 December 2023 the Respondent would apply for Strike Out of the Claim.
7. In the Respondent's complaint they could not understand the extent of any losses the Claimant said she had suffered and could not ask Witnesses to comment on potentially relevant documents in their Statements.
8. In fact the Claimant had supplied a Schedule of Loss (albeit without supporting documents) in accordance with an Order of Employment Judge Tynan made on 5 April 2023.
9. Insofar as the precise allegations which the Claimant makes in these proceedings, these have been known to the Respondent's Witnesses since 19 July 2023 when they were clarified in full before Employment Judge Brown and the steps will, presumably, have been taken to ensure that the relevant Witnesses' evidence on those matters has been reserved.
10. Further, the Claimant, she tells me, received therapy for Post Traumatic Stress Disorder and other trauma following being the victim of crime in September 2022. She first experienced symptoms of PTSD in May 2023 and has received Trauma Counselling since April 2024.
11. In all those circumstances, therefore, I had some sympathy with the Claimant's position.
12. Further, this current state of affairs could have been avoided if there had been some clear explanation to the Claimant precisely what it was she was required to send to the Respondent. I spent some time explaining the type of documents that were required and the reason why they were required, to be submitted by the Claimant today. The Claimant was able to understand this and understands the documents that she needs to send and the importance of sending them on time in accordance with the Unless Orders separately made to avoid her case being Struck Out and further that the case would be Struck Out if the Unless Orders were not complied with.
13. I was satisfied that there was no barrier to a fair Hearing taking place in this case. No evidence of any prejudice or diminution in memory was put before me. I have already said that the Respondent's Witnesses had been aware for a considerable period of time of the precise allegations which the Claimant makes in these proceedings and to which they will have to

answer. Therefore I was satisfied that it was appropriate not to Strike Out the Claimant's complaint. This would have been a draconian step and the matter can be satisfactorily dealt with via Unless Orders.

20 May 2024

Employment Judge M Ord

Sent to the parties on: 22 May 2024..

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For the Tribunal Office.

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Recording and Transcription

Please note that if a Tribunal Hearing has been recorded you may request a transcript of the recording, for which a charge is likely to be payable in most but not all circumstances. If a transcript is produced it will not include any oral Judgment or reasons given at the Hearing. The transcript will not be checked, approved or verified by a Judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>