



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

**Miss P Angelova**

**v**

**ITX UK Limited**

## RECORD OF A PUBLIC PRELIMINARY HEARING

**Heard at:** Watford (by CVP)  
**On:** 29 April 2024  
**Before:** Employment Judge Alliot (sitting alone)

### Appearances

**For the Claimant:** In person  
**For the Respondent:** Mr J Allsop (counsel)

## JUDGMENT

The judgment of the tribunal is that:

1. The respondent's application for a strike out order and/or unless order is dismissed.

## REASONS

1. On 8 January 2024 the respondent applied for a strike out or unless order pursuant to rule 37(1) of the Employment Tribunal Rules of Procedure on the basis that:
  - 1.1 The claimant's non-compliance with orders of the tribunal (namely, disclosure on 4 January 2024) , and/or
  - 1.2 That the claimant has not actively pursued her claim (as demonstrated by the claimant's failure to comply with the above mentioned order or provide any explanation for her failure to do so).
2. The claimant issued her claim on 28 October 2022. The respondent's response is dated 3 January 2023.
3. In due course there was a case management preliminary hearing in front of Employment Judge Warren on 5 June 2023. Case management orders were made. An amended grounds of resistance was ordered to be filed and served by 7 August 2023 and the respondent has complied.

4. The claimant was ordered to serve a schedule of loss by 3 July 2023, disclose documents by 4 September 2023, agree a final hearing bundle by 2 October 2023 and exchange witness statements by 13 November 2023.
5. The claimant did not comply with any of the case management orders, notwithstanding the respondent chasing them. There was a previous strike out application dated 6 September 2023.
6. It is noticeable that the claimant was able to issue a separate second claim on 4 August 2023 which has quite a lot of detail set out in section 8.2 and a 7 page "discrimination complaint letter" attached to it giving details of her disability discrimination claim.
7. On 20 September 2023 the claimant served a schedule of loss but it has been confirmed today that that covers both claims as it includes a claim for loss of earnings, disability discrimination and an Acas uplift relating to grievances that do not appear to form part of this first claim.
8. In October 2023 the claimant emailed the tribunal stating that she had severe ill-health conditions and was undergoing a series of medical tests and diagnostic procedures. She requested additional time for disclosure.
9. As a result, on 17 October 2023, a joint application was made for variation of the case management directions.
10. On 1 December 2023 Employment Judge Boyes varied the case management orders as follows:-
  - Claimant to disclose all documents by 4 January 2024.
  - Parties to agree final hearing bundle by 26 January 2024.
  - Exchange of witness statements by 24 March 2024.
11. The claimant did not disclose her documents by 4 January 2024 which prompted the respondent to make this application on 8 January 2024.
12. On 12 January 2024 the claimant emailed the tribunal to object to the application for strike out and referred to her ongoing intensive emergency treatment for an overactive thyroid. The claimant requested an additional 60 days in order to make her disclosure. Notwithstanding that request, the claimant did not comply with her own timetable and only sent copies of her documents at 9.19 today, 29 April 2024. The respondent was unable to access them.
13. I have every sympathy with the claimant due to her health conditions and the fact that she has, apparently, been the subject of domestic violence. However, the claimant was first ordered to provide disclosure on 5 June 2023. She has had one tribunal sanctioned extension of time and an extra 60 days was requested by her which she had failed to comply with. I do not accept that her illness and/or unfortunate domestic situation will have

prevented her from complying. The list of issues as defined by Employment Judge Warren do not look as if they would generate a great deal of documentation as far as she is concerned and probably only run to a few emails. The alleged shortfall in maternity pay is specific and any losses consequent upon a £2,000 loan should not be difficult to evidence.

14. I have to consider proportionality, all the circumstances, the reason why there has been default, whether it has been deliberate or otherwise and whether the final hearing date is in jeopardy. Striking out is a draconian order and there may be lesser sanctions that are appropriate. This case has been listed for a final hearing for 5 days from 7 to 11 October 2024. As such, I do not consider that the claimant's default has threatened the final hearing.
15. In my judgment, the claimant's conduct of the issue of disclosure has been unreasonable. It is noticeable that on 4 August 2023 she was able to issue a detailed second claim in the employment tribunal. She is clearly capable of taking active steps in current litigation and could and should have complied with the tribunal orders. She has had three chances to do so and has only acted at the eleventh hour.
16. In my judgment, to strike out her claim would be disproportionate at this stage.
17. However, I warned the claimant that my finding that her conduct had been unreasonable may result in an application by the respondent for an order for costs against her. Mr Allsop indicated that his brief fee was £2,000 plus VAT and there may well be ancillary solicitors costs in preparing for this hearing. In my judgment, it was reasonable for the respondent to make this application due to the default of the claimant and that the necessity for this hearing was caused by the unreasonable conduct of the claimant in relation to disclosure.
18. I determine that the claimant should be given one last opportunity to comply with all case management orders.
19. Consequently, the respondent's application for a strike out and/or unless order is refused.

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Employment Judge Allott

Date: 16 May 2024

Sent to the parties on: 13 June 2024

For the Tribunal Office

**Recording and Transcription**

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