



EMPLOYMENT TRIBUNALS

Claimant: Mr Nobbs
Mr Bobbin

Respondent: First Home Improvements (England) Ltd
Mr Gibson

JUDGMENT

Neither claim is struck out.

REASONS

1. There was a preliminary hearing on 30 January 2024, before EJ Robinson, at which orders were made. The summary and orders document was sent to parties on 19 February 2024.
2. By email dated 29 February 2024, the Respondent's representative, applied for claims to be struck out because they had no reasonable prospect of success and/or because the claimant had not complied with an order. For the latter argument, in the alternative, they sought an Unless Order. The application failed to specify the paragraph number of the orders, but, in context, it is a reference to paragraph 15 (which was made for the reasons discussed in paragraph 8 of EJ Robinson's summary and orders document.) That order required the Claimants to supply the information by 23 February 2024.
3. On 14 March, the Respondent's representative wrote to the Tribunal to chase up the application and to state that they still had not heard from the Claimants. A couple of hours later, the Claimants then solicitors came off the record.
4. On 10 April 2024, Dean Wilson LLP came on record, and purported to supply the information required by paragraph 15 of EJ Robinson's orders.
5. In subsequent correspondence (1 May 2024 from the Respondents' representative, 2 May 2024 from the Claimants' representative, 9 May 2024 from the Respondents' representative, 10 May 2024 from the Claimants' representative) the parties have argued about the adequacy of the information and/or about the legal tests which the Tribunal needs to apply when deciding whether a particular (alleged) disclosure amounts to a protected disclosure.

6. The Respondent has purported to demand a hearing. However, only the party that is the subject of a strike out application (not the party seeking it) has the right to insist upon a hearing. I am satisfied that a fair decision can be made on the papers, and I have made the above mentioned judgment for following reasons.
7. The details supplied on 10 April are adequate to comply with the terms of EJ Robinson’s order. (The details of the alleged disclosure of information are in paragraph 3 of the list of issues.) If the Respondents’ opinion is that, on that basis, there was no protected disclosure, then that is an argument for them to make at the final hearing. The question is fact sensitive, and depends (in part) on the Claimants’ subjective belief about the whether they believed that the information (allegedly) disclosed tends to show breach of a legal obligation. The Respondents argument that the Respondent was not, in fact, subject to any legal obligation that matches those described by the Claimant is not a suitable basis for strike out (for no reasonable prospects).
8. The lateness of the compliance with the order is not necessarily acceptable, and there does not necessarily seem to be any excuse. However, it would be disproportionate to strike out and a fair trial starting 13 August can still take place. If there is to be any sanction at all applied for the lateness of the information (about which I express no opinion) then it must be a sanction short of strike out.
9. The final hearing remains listed as previously notified. The parties must co-operate to ensure that any orders which have not yet been complied with (including bundle finalisation and exchange of witness statements) take place immediately.

Employment Judge Quill

Date: 8 July 2024

JUDGMENT SENT TO THE PARTIES ON
22 July 2024

.....

.....
FOR THE TRIBUNAL OFFICE