



EMPLOYMENT TRIBUNALS

Claimant: Miss Rana Al Moosa
Respondent: University College London Hospitals NHS Foundation Trust

Heard at: London Central (by CVP)

On: 18/7/2024
Before: Employment Judge Mr J S Burns

Representation

Claimant: Herself
Respondent: R Lassey (Counsel)

JUDGMENT

1. The Claimant's application to amend her claim by adding the material in the document entitled "Response to ET 27 June 2024", is refused.
2. The unfair dismissal claim is struck out.

REASONS

For paragraph 1 above

1. The Claimant has already been granted leave (by consent) to amend to include much of the material in sections 1-4 of the list of Issues in Part C of the Record of a Preliminary Hearing dated 15/5/24, which itself was the product of considerable work by EJ Sugarman who had discussing the matter with the Claimant to identify and formalise the claims and averments which the Claimant had made and said then that she wished to make.
2. At the end of the hearing on 15/5/24 the judge directed that within 7 days of the date that the CMO was sent to the parties, (which date was 23/5/24) the Claimant should (i) "*write to the Respondent and Tribunal to confirm or amend the dates of the allegations set out in the List of Issues; confirm whether she intends to pursue a claim of unfair dismissal and if so, she must set out the legal basis of such a claim bearing in mind she does not have 2 years' service. She should also summarise her position on the Respondent's contention that she was not an employee*" and (ii) make any application she wished to make to amend her claim further.
3. The Claimant failed to comply with (i) and on 31/5/24 sent to the Tribunal (but not to the Respondent) an email attaching a first version of a document she entitled "*Response to ET*". Neither the email or the attachment stated that it was an application to amend. A further version of the "*Response to ET*" document was sent on 12/6/24 to the Respondent which objected and wrote to the Tribunal asking for a direction that the Claimant should make a formal amendment application. The Claimant sent a further 25-page version dated 27/5/24 to the Tribunal undercover of an email (not showing any copying to the Respondent) dated

28/6/24 at 23.37 stating *"I am making a formal application to expand information on the claim form please. I am seeking avoidance of undue formality...kindly find the attachment as per request of the solicitor"*

4. The Claimant confirmed today that the amendment application that she wished me to consider was that made by her email of 28/6/24 which attached the 25-page version. That application has been made 4 weeks after the deadline imposed by EJ Sugarman.
5. The Claimant confirmed today that she wished to "merge" the List of claims/issues identified by EJ Sugarman on the one hand, and the content of the 25-page "Response to ET" on the other.
6. The latter is muddled and unstructured and if allowed as an amendment would create forensic prejudice to the Respondent by requiring it to defend ill-framed allegations presented on a 'shot-gun' basis.
7. Hence the manner and form does not support the application.
8. Allowing it, would expand the claims considerably against a wide cast of new alleged protagonists, not referred to in the ET1 or mentioned to EJ Sugarman, as well as adding new material under the existing headings of direct discrimination and harassment.
9. Mr Lassey submitted that according to his instructions, at least 9 persons who are not implicated in the unamended claims would have to be considered as relevant witnesses following any further amendment. At least three of these extras (namely Berment, Howsen, and Urquhart) are either no longer employed or on long-leave in circumstances in which it would be difficult or impossible to call them.
10. The trial listing would have to be considerably extended and as a consequence, postponed.
11. The Claimant has not put forward any good reason for not bringing all her claims in her ET1 as and when presented. The new claims such as they are would all be out of time if they had been presented afresh at the date of application (28/6/24).
12. Included in the proposed new claims are types of automatic unfair dismissal which do not require two-years' service, and a claim for wrongful dismissal (despite the fact that the Claimant indisputably did receive 2 weeks' notice of termination). The proposed inclusion of these appears to have stemmed directly from the Claimant learning from the PH in May that her claim for ordinary unfair dismissal was untenable. As with much of the proposed amendment they have a flavour of an afterthought. It would be unlikely that the Claimant would be able to overcome the time-bars in relation to these claims in particular.
13. Subject to paying a deposit (see separate order) the Claimant already has claims which thanks to EJ Sugarman are well-defined, coherent and contained within reasonable bounds.
14. The balance of hardship and prejudice requires the amendment to be refused. I have applied the principles in Selkent and Vaughan v Mobility Partnerships in making my decision about

this.

For paragraph 2 above

15. The ET1 as identified by EJ Sugarman in his case management record of 15/5/24 discloses a claim of (ordinary) unfair dismissal only.
16. The Claimant, even if she was an employee, (which the Respondent disputes) did not have two years' service required to claim ordinary unfair dismissal.
17. Hence the Tribunal has no jurisdiction to entertain that claim in this case and it has no reasonable prospect of success.

Employment Judge J S Burns
18/07/2024
For Secretary of the Tribunals

Date sent to parties
24 July 2024
