



EMPLOYMENT TRIBUNALS

Claimant: Miss Marlena Chrzanowska

Respondent: Noble Foods Ltd

Record of an attended Hearing at the Employment Tribunal

Heard at: Nottingham

Heard on: 24 July 2024

Before: Employment Judge Hutchinson (sitting alone)

Appearances:

Claimant: No appearance

Respondents: No appearance

JUDGMENT

1. The application for Interim Relief fails and is dismissed.

REASONS

Background to this Hearing

1. The Claimant presented her claim to the Tribunal on 1 July 2024. She said that she had been employed by the Respondents at their premises in Lincoln from 19 August 2022 to 17 June 2024 as a Production Supervisor.
2. She claimed unfair dismissal. She said that the principal reason for her dismissal was whistleblowing.
3. She made an application for Interim Relief saying:

“Unless the Respondent confirms that they are willing to reinstate me I am entitled to an Order for the continuation of my contract of employment pursuant to Section 129(9) ERA.”

4. In clause 8.2 of her claim form she explained that she had been dismissed after she had asked an employee to go home. The reason for her dismissal related to her conduct.
5. She said at the end of paragraph 8.2:

“It is also important to note in my role as Production Supervisor I consistently advocated for the rights of my employees who were being paid less than was agreed which I will be able to prove during the hearing. I believe that my actions were not well received by my superiors and they used a recent incident as an excuse to unjustly terminate my employment.”

6. The claim was accepted, and the case was listed for an Interim Relief Hearing today. The Claimant was sent notice of that hearing as were the Respondents.
7. The Respondents were served at their address in Lincoln but not at their Registered Office which is:

Waterfront Building
Lotus Park
The Causeway
Staines-Upon-Thames
TW18 3AG

The Hearing Today

8. Neither party attended and the administration team at the Tribunal contacted the parties to see why that had not attended. The Claimant said that she had started a new job yesterday and that she was working there today. The Respondents say that they did know of the proceedings.

The Law

9. The Claimant's claim for unfair dismissal is under Section 103A Employment Rights Act 1996 (ERA) which provides:

"An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure."

10. That involves the Claimant being able to establish that she has made a protected disclosure and that she was dismissed because of it and not for some other reason.

11. The claim form does not provide sufficient details of what the Claimant says is the protected disclosure and why it is a protected disclosure nor does it satisfy me that the Claimant is really saying that the reason or principal reason for the dismissal was because of a protected disclosure.

12. The application for Interim Relief is made under Section 128 ERA which provides:

"(1) An employee who presents a complaint to an employment tribunal that he has been unfairly dismissed and—

(a) that the reason (or if more than one the principal reason) for the dismissal is one of those specified in—

(i) Section 103A,

.... May apply to the tribunal for interim relief.

(2) ...

(3) The tribunal shall determine the application for interim relief as soon as practicable after receiving the application.

(4) The tribunal shall give to the employer not later than seven days before the date of the hearing a copy of the application together with notice of the date, time and place of the hearing.

(5) The tribunal shall not exercise any power it has of postponing the hearing of an application for interim relief except where it is satisfied that special circumstances exist which justify it in doing so.

13. Section 129 ERA provides:

"(1) This section applies where, on hearing an employee's application for interim relief, it appears to the tribunal that it is likely that on determining the complaint to which the application relates the tribunal will find—

(a) that the reason (or if more than one the principal reason) for the dismissal is one of those specified in—

(i) Section 103A"

14. Clearly from the above that unless special circumstances exist, I should not adjourn the application for interim relief. I also must be satisfied that it is likely that on determining the complaint to which the application relates I will find that the reason or if more than one reason the principal reason for the dismissal is because the Claimant made a protected disclosure.

My Conclusions

15. I am satisfied that the Claimant was aware of the hearing today and has chosen not to attend but to go to work in her new employment. That undermines greatly her application for continuation of her employment with the Respondent.

16. I am not satisfied that there are exceptional circumstances for postponing the hearing and that I should therefore deal with the application based on the information I have.

17. If I was going to consider granting any such application, I would have needed to be satisfied that the Respondents had properly been served with the application. I am not so satisfied because the claims were not sent to their Registered Office address.

18. Based on the information that I have I cannot say that the Claimant is likely to succeed with her claim. On the contrary it is not clear from her claim form what her protected disclosure was or what evidence she has that the reason for the dismissal was that she made a protected disclosure rather than she was dismissed for gross misconduct.

19. In all the circumstances the application for Interim Relief fails and is dismissed.

Employment Judge Hutchinson

Date: 9 August 2024

JUDGMENT SENT TO THE PARTIES ON

....14 August 2024.....

.....

FOR THE TRIBUNAL OFFICE

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

"Recordings and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. 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/>