



EMPLOYMENT TRIBUNALS

Claimant: Hologic Ltd

Respondent: Mr R Hines

JUDGMENT

The counterclaim is dismissed. The Tribunal has no jurisdiction to hear it.

REASONS

1. The respondent issued an employer's counter claim ("ECC", claim number 2403621/2024) against the claimant which was presented to the Tribunal on 21 May 2024. The ECC was accepted by the Tribunal and a response was requested from the claimant, which was provided on 25 July 2024.
2. A Tribunal can only hear an ECC if there is a valid claim for breach of contract by the claimant before the Tribunal at the time the ECC is presented (article 4 Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994/1623).
3. The claimant in his response to the ECC correctly identifies that his contract claim (part of claim number 2402234/2024) was withdrawn on 15 May 2024 and confirmed as withdrawn by the Tribunal on 18 May 2024. The only claim remaining after 15 May 2024 was a statutory claim for unfair dismissal.
4. Rule 51 of the ET Rules of Procedure 2013 states that "*where a claimant informs the Tribunal... that a claim is withdrawn, or part of it, is withdrawn, the claim, or part, comes to an end...*". Rule 52 provides for an automatic judgment to be issued dismissing the claim on withdrawal. This was done on 27 May 2024 and sent to the parties on 26 June 2024.
5. The ET1 for the ECC was not presented to the Tribunal until 21 May 2024. By this time, there was no longer a contract claim by the claimant before the Tribunal. As per rule 51, it had come to an end when withdrawn by the claimant on 15 May 2024.
6. The employer's contract claim must be '*presented at a time when there is before the tribunal a complaint in respect of a contract claim of a particular employee which has not been settled or withdrawn*' as per Article 8(a) Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994/1623.

7. Therefore, if the employee's contract claim is settled or withdrawn before the employer's contract claim is presented to the tribunal, the employer will not be able to pursue the claim in the tribunal.
8. In this case, the employee's contract claim was withdrawn on 15 May 2024. The employer's contract claim was presented on 21 May 2024. The Tribunal has no jurisdiction to hear it. it is hereby dismissed.

Employment Judge Barker
Date 26 September 2024

JUDGMENT & REASONS SENT TO THE PARTIES ON
30 September 2024

FOR THE TRIBUNAL OFFICE

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