



EMPLOYMENT TRIBUNALS

Claimant

Respondent

v

Ms S Nicholson

Royal Mail Group Limited

Heard: In Leeds

On: 5 June 2024

Before: Employment Judge JM Wade

Appearance:

For the Claimant:

No attendance

For the Respondent:

Ms Ryan, solicitor

JUDGMENT

The entirety of the claimant's claims within her claim form and particulars are dismissed pursuant to Rule 47 upon the claimant's failure to attend or be represented at today's hearing.

REASONS

1. The claimant was a Royal Mail Christmas Seasonal Worker from 6 November 2023 until 4 December 2023 – the parties agree about that. On 6 December 2023 the claimant commenced ACAS conciliation, she received a certificate on 2 January 2024 and she presented her claim on 23 January 2024. All complaints were therefore in time. The parties took part in a case management hearing on 18 June 2024 by video – for the reasons set out in the Employment Judge's summary of that hearing, progress in identifying the claimant's case was limited. The Employment Judge directed today's in person hearing.
2. In advance of the hearing I considered the information on the file. In broad terms it was clear the claimant considered the Employment Judge's order to provide further information about her claims to be unjust and she had not complied with it.
3. The notice for today's hearing (with a three hour time estimate) was sent on 28 June to the parties saying the hearing was on 5 November 2024 at 10.00. On 30 October 2024 the respondent's solicitor wrote to the claimant to note they awaited a response from her in relation to the list of issues (which was the format the Judge had directed for further information). The claimant had been ordered to provide it

by 19 July and to confirm any amendment application by 16 August 2024.

4. There followed, after the respondent's 31 October email, enquiries from the claimant by email. I had directed the following letter be sent on 1 November 2023:

"The parties must raise any further questions about these proceedings with the Judge at the forthcoming hearing. Further correspondence will be placed on the file for the Judge to read. The Tribunal does not provide details of Judges in private case management hearings in advance, not least because unforeseen circumstances can result in changes with little notice. The clerk will be able to confirm the Judge allocated when the parties arrive for the hearing".

5. The claimant had asked for the Judge's and solicitor's name for today, asserting that a three hour hearing was not long enough, and had sent rude emails, which included such comments as,

" Complaint my name and title has been missed off your condensed email.

Therefore a complaint about the condensed, unprofessional [staff name]

Did she go to school find attached not see

Especially as I now know not think that three hours isn't sufficient

Not only that it's Tribunal not Tribunals. Single is one employment tribunal"

6. Before the hearing I read the claim and the further information recorded by the Employment Judge – for instance the "protected act" for the purposes of victimisation was said to have been done on 3 December 2023.

7. I could discern the following factual allegations:

7.1. on Tuesday 7 November 2023 an Eastern European and Asian female were aggressive towards the claimant;

7.2. On Thursday 9 November 2023 Raj Kaur deputy manager asked her to load items on the belt and when the claimant asked her what to do she walked off; she was then told to go back to scanning;

7.3. On 10 November 2023 the claimant was taken into a room by Paul Jagged and Caroline Crowther and told she had been aggressive and made someone cry – the claimant said "not really" when asked if she would like to discuss it further;

7.4. On Friday 17 November an Eastern European female agency/Angard worker called the claimant "a bitch" for saying the weight was a lot more than a kilo;

7.5. On or around 17 November Paul Jagged told the claimant "you need to mingle", thereby subjecting her to sexual harassment;

7.6. On 23 November an Indian male worker "chatted the claimant up", at work amounting to sexual harassment;

7.7. Caroline Crowther called that worker, "sweetie, love", amounting to sexual harassment of the claimant and Elise (shift leader) uses similar terms to colleagues and "shows her cleavage";

7.8. On Friday 24 November Caroline Crowther, shift lead, told the if she didn't work both Saturday and Sunday she would be banned from overtime;

- 7.9. On 30 November the claimant complained over the safety of handling/throwing heavy items and Ms Crowther said, “she might as well go home”;
 - 7.10. On 1 December 2023 a female touched Paul Jagged, Working Area Manager;
 - 7.11. On Sunday 3 December the claimant was sent home by “Elise” weekend shift leader, overtime having been agreed;
 - 7.12. The claimant was expected to flirt with colleagues to get things done and on 3 December asked how she should clear the belt on her own (in particular she was unable to throw heavy items from one side of the belt to the other to get them into the Yorkie);
 - 7.13. Mr Jagged criticised the claimant for mis-sorting items, when others put the wrong items in “Yorkies” and were not criticised;
 - 7.14. The termination of the claimant’s employment was because on 3 December the claimant did a protected act – victimisation.
8. The legal labels identified in the claim form and attachment are:
- 8.1. Age discrimination;
 - 8.2. Race discrimination;
 - 8.3. Sex discrimination;
 - 8.4. Victimisation;
 - 8.5. Relationship status discrimination;
 - 8.6. Sexual harassment.
 - 8.7. Being owed arrears of pay – the claimant says one hour’s pay was deducted without authorisation from her 4 December 2023 pay (information given at the last case management hearing)
 - 8.8. Breaches of the Working Time Regulations 1998 - in that the claimant was forced to work without weekly rest by being required to work on Saturday 2 December and Sunday 3 December – this appears to be a reference to Regulation 11.
 - 8.9. Breaches of the Health and Safety at Work Act.
9. It is also possible, but not clear, that the claimant intended detriment and/or dismissal allegations, related to working time rights, and/or health and safety, pursuant to sections 44A/101A (working time) Employment Rights Act 1996, or Sections 44/100 (health and safety).
10. At this hearing I had intended to consider more fully the prospects of success of the allegations as they stand, in circumstances of the claimant having provided no further information and having failed to make any amendment application. My broad preliminary assessment was that I considered that there are a very few allegations/potential allegations which have more than little reasonable prospects of success. This included consideration of the claimant’s communications in connection with her claim.
11. From 1 November 2024 the claimant sent a flurry of emails to the Tribunal including abusive emails. I will quote an email sent at 14.59 on 4 November 2024, with subject heading:
- “FW: Nicholson v Royal Mail 1800692/2024 [name of a solicitor who attended a hearing] got the job on the casting couch not with her professional*

qualifications how many has she shagged at [] to get and keep that job? As she is a fraud. Correction then the slag wouldn't understa...."

Then the slag wouldn't understand been threatened with rape. Wouldn't understand about been sexual assault in a shop. I'm not working together with the slag.

Because I'm not a casting couch slag that [] is.

Ms Nicholson"

12. There are many others – around fifty further pages on the Tribunal's file - in a similar vein. They are, on any measure, scandalous. At 3.16pm on Monday 4 November 2024 the claimant wrote:

"Subject: Re: Nicholson v Royal Mail 1800692/2024 I'll be making further complaints regarding the disgusting staff at Leeds Employment Tribunal for not answering open questions allowing me to be violated further by Weightmans and Royal Mail for not explaining....."

I hope you all die for the way that you've treated me as it's been disgusting"

13. Taking into account the respondent's response to the claims and allegations, unclear as those claims were, I consider that in almost all matters arising in the claimant's short employment, the most likely explanation for management conduct towards her has been her own conduct, which I consider will likely have been of the kind experienced by the Tribunal and the respondent's solicitors: rude and abusive. The "reason why" will have nothing to do with the claimant's age, marital status, race, or sex.
14. The allegations of being "chatted up" at work by a colleague, and, if this is the claimant's case, being penalised for raising working time/health and safety concerns, may be arguable, but the first of these, as with all sexual harassment allegations, will come to be assessed by a Tribunal comprising lay members. They will assess with the Employment Judge the reasonableness of a matter being perceived as harassment. On the basis of her communications, there is a substantial risk that her perceptions, when weighed with the perceptions of others, will not be sufficient to result in a successful harassment claim - the lens through which she sees the world is reflected in her communications.
15. Today I was informed that the claimant had arrived for the hearing, but had then left. She had been asked, as were the respondent's representatives, to provide her belongings for security check and for her to be "wanded" and to walk through the security barriers. She expressed multiple issues with security, including, when the guard asked her to slow down when presenting her personal belongings. She reiterated [xxxxxxx] and refused to go through the walk in scanner without her bag. She raised her voice and left.
16. I was informed of these events and directed a letter be sent to the claimant in the following terms, in the hope and expectation that having reflected she would return for the hearing. The letter said: "*Rule 47 provides that if a party fails to attend or be represented at a hearing a Judge may dismiss the claim or*

continue with a hearing. Employment Judge Wade will wait until 11.00 before considering whether the parties are present and how to apply Rule 47, taking into account the information available to her, including events this morning.”

17. The claimant had not provided a mobile telephone number as a means of communication in her claim form and our clerk could therefore do no more than send an email. The claimant did not return today.
18. The respondent was represented and I invited their comments on the two options indicated by Rule 47 (continue or dismiss the claims), and indeed other options such as an unless order or postponement. The respondent was against postponement – it had already had the expense of two case management hearings without further progress. An unless order, in circumstances where the reason for the claimant’s non attendance is known appears unlikely to elicit any better response than to the Orders already ignored, but involves further Tribunal resources.
19. The respondent wished to pursue a strike out application in relation to the claimant’s conduct of the proceedings, albeit it recognised notice would be needed, with details of the grounds, and an opportunity for the claimant to respond either at a hearing or in writing.
20. I reminded the respondent that the main focus of consideration of a strike out application, in circumstances of scandalous conduct of the proceedings, is whether a fair hearing can still take place. That would require an assessment of the broad backs required of solicitors, witnesses, and potentially Tribunal staff and Judges in being the brunt of such conduct and its impact on the fairness of hearings.
21. Taking all these matters into account, I decide the just course of action pursuant to the Tribunal’s rules. I weigh in the mix the impact on justice as a whole, when one party’s conduct affects the administration of justice for all Tribunal users.
22. I also weigh my comments on the prospects of success of the great majority of the claimant’s allegations. While dismissal at Rule 47 is potentially draconian, the prejudice to a party in such a decision is much less if there are real difficulties with their claims, which I record above. It is also much less if a potential future hearing will encounter non attendance and/or behavioural issues.
23. The theme of the claimant’s correspondence is that she has no trust in the Tribunal, its staff, security, or the respondent’s representative to uphold the rule of law, and she will continue to be abusive about that. In those circumstances it is wholly unlikely she wishes to progress her claim and that is why she has not complied with previous Orders. It appears to me to be a fair exercise of my discretion to bring these proceedings to an end, and dismiss all the claimant’s claims, actual and indicated, as I have identified them above.
24. Postscript: I now see on the file that the claimant has indicated a complaint against me, and that the reason for her non attendance was “not leaving my bag with personal information in it be stolen by staff as it wasn’t in a safe place”;

further that our clerk cannot have told me of the circumstances at security. Plainly he had, and I had that information before I reached this decision.

Employment Judge JM Wade

Dated: 5 November 2024

JUDGMENT SENT TO THE PARTIES ON

Dated: 20 November 2024

FOR THE TRIBUNAL OFFICE

All judgments (apart from those under rule 52) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents. There is a practice direction about recording in Tribunal hearings.