



EMPLOYMENT TRIBUNALS

Claimant: Mr N Byrom

Respondent: Brauer Ltd

JUDGMENT

The application to strike out the claim is refused.

REASONS

1. At a hearing on 10 June 2024, EJ Tynan scheduled a final hearing and made case management orders.
2. On the basis of the correspondence in the bundle, it is conceivable that the Respondent has misunderstood its obligations. In any event, the orders required each party to disclose documents to the other by 22 July 2024. The orders then required the parties to co-operate to agree the hearing bundle. In other words, to agree which of the documents from each side's disclosure to the other would be put into the combined (and hopefully jointly agreed) bundle.
3. The orders did not require that the Claimant "agree" to accept the Respondent's documents only, or, failing that, to produce his own bundle.
4. In further correspondence between the parties, EJ Tynan has made further orders about what to do in the event that the parties fail to agree the contents of a single chronological bundle (which would be helpful to both sides, as well as to the Tribunal hearing the case). Effectively, if the Respondent refused to add in the Claimant's documents in the correct chronological order, EJ Tynan advised the Respondent that they could have two separate sections in the bundle: one for the documents that the Respondent was content with; one for the documents that the Claimant wished to have included.
5. EJ Tynan did not order the Claimant to re-send documents that he had already sent to the Respondent. If there is a dispute, at the final hearing, about whether each side complied with their respective disclosure obligations by 22 July 2024 (and/or about whether they failed to comply with the disclosure obligations at all), then the Tribunal will make decisions. For avoidance of doubt, parties were required to send all documents in their possession that either supported or undermined their own case for all the

issues, including the issue of remedy. The Respondent has failed to identify any specific document that it believes that the Claimant possesses, but that he has failed to disclose.

6. If there is a dispute about the authenticity of any document, the party disputing the document should put the other side on notice that the authenticity of the document is in dispute. The document should still be included in the hearing bundle, however.
7. If the Respondent's assertions that the Claimant has fabricated evidence are proven true at the final hearing, then the Tribunal hearing the case will deal with that appropriately. Likewise, if the Respondent makes such claims, and the Tribunal decides that there was not a proper basis for them, then that will be dealt with accordingly. Either way, the fact that the Respondent disputes the authenticity of particular items is not a good enough reason to exclude them from the hearing bundle, still less is it a proper reason for the claim to be struck out without a hearing.
8. The Claimant's application dated 17 October 2024 does not provide a proper basis for striking out any of the claims in the list of issues produced by EJ Tynan. None of those claims depend on the Claimant's length of service. The claim might succeed, or it might fail, but the Respondent's assertions that they are confident that it will fail do not mean that the claim should be struck out.
9. The hearing remains scheduled to take place as previously notified.

Approved by:

Employment Judge Quill

Date: 19 February 2025

JUDGMENT SENT TO THE PARTIES ON

20 February 2025

FOR THE TRIBUNAL OFFICE