



EMPLOYMENT TRIBUNALS

Claimant: Mr T Wetherill

Respondent: John Lewis plc

Heard at: Bristol Employment Tribunal (by video)

On: 6 February 2025

Before: Employment Judge Ferguson

Representation

Claimant: In person

Respondent: Mr D Brown, counsel

JUDGMENT having been sent to the parties on 13 February 2025 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunal Procedure Rules, the following reasons are provided:

REASONS

1. The Claimant worked for the Respondent in a branch of Waitrose from October 2023 until 14 March 2024. He presented a claim form on 23 May 2024. In section 8.1 he ticked boxes for unfair dismissal, redundancy payment and arrears of pay. He also ticked the box for "I was discriminated against", but did not tick any of the listed protected characteristics and instead wrote by hand at the end of the list, "false sexual allegations". He also ticked "another type of claim" and wrote, "Please read appendix A".
2. The appendix set out a narrative involving sexual allegations being made against the Claimant by three individuals, resulting in his suspension on 13 December 2023. An investigation took place and it was concluded there was no case to answer. The Claimant returned to work on 6 January 2024. He says a colleague threatened him and his manager told him to go home for his own safety. He heard nothing further until 26 January when he queried his January pay. His manager then said she had been in hospital and asked the Claimant to return to work on 27 January, which he did. He continued to dispute the deduction from his pay and the Respondent's handling of the investigation. The appendix states, "My advisor has told me I have a clear case against Waitrose

for Defamation of Character as all the legal boxes are ticked... I will therefore be seeking damages from Waitrose.”

3. The Claimant accepts he did not have two years' service. The unfair dismissal and redundancy payment claims have already been dismissed for that reason.
4. The Respondent defended the claim. It argued that the Tribunal does not have jurisdiction to hear the discrimination claim because the Claimant has failed to identify a protected characteristic under the Equality Act 2010. It also noted that the Claimant appeared to indicate he was bringing a defamation claim and the Tribunal does not have jurisdiction to hear such a claim.
5. This hearing was listed to determine whether the claim or any part of it should be struck out or whether a deposit order should be made.
6. Following the Tribunal sending a strike-out warning in respect of the unfair dismissal and redundancy payment claims, the Claimant wrote to the Tribunal seeking to clarify his claim. He wrote:

“I am not claiming unfair dismissal as I appreciate that having worked at Waitrose for less than 2 years I have no rights in this regard . The point I have made in my letter was that the actual reasons given for my dismissal were ridiculous and not true. Waitrose just wanted me out because I had dared challenge the investigation by Michelle Beard into the false sexual allegations made against me which is the reason I am claiming £75000 in damages. Also I demanded back the deductions of £832 from my salary without any verbal or written notice on the grounds that I had taken unauthorised leave when I had in fact been sent home by Michelle Beard FOR MY OWN SAFETY after being attacked by ... an employee in the canteen. Those 2 issues are the basis of my claim.”

7. Further, the Claimant completed a case management agenda in preparation for this hearing, in which he wrote:

“I am NOT claiming unfair dismissal. As i had only been employed for less than 2 years i have no such rights . i am claiming
1 personal and reputational damages
2 salary non payment following following official grievance notice
3 illegal salary deductions without notification
4 non payment of overtime worked”

8. Further discussion took place during the hearing to clarify the Claimant's claim. The statutory bases of the Tribunal's jurisdiction were explained to the Claimant. He argued that his claim should be allowed to proceed, and outlined a number of criticisms of the way in which the investigation was handled, saying that the Respondent's treatment of him had caused him depression.
9. The Respondent accepted that the Claimant had brought a valid claim for unauthorised deductions from wages. It had denied any unauthorised deduction in its grounds of resistance, but ultimately agreed to the Tribunal issuing a judgment by consent upholding that complaint. It maintained the Tribunal did not have jurisdiction in respect of any other matter raised by the Claimant.

10. I am satisfied that the Claimant has not brought any claims, other than the wages claim, over which the Tribunal has jurisdiction. The Claimant's essential complaint is that he was subjected to false allegations of sexual misconduct and that the Respondent did not carry out an adequate investigation into them. It is not in dispute that the Respondent concluded there was no case to answer and did not seek to take any action in relation to those allegations against the Claimant. The Claimant says, however, the way the matter was dealt with by the Respondent has damaged his mental health and his reputation. To the extent there is any valid legal cause of action there, it is not one which the Tribunal has jurisdiction to consider. The Claimant has not articulated any complaint of discrimination because of a protected characteristic under the Equality Act 2010. Insofar as the Claimant has brought a complaint about the allegations and the investigation, therefore, it is dismissed on the basis that the Tribunal has no jurisdiction to consider it.

Approved by:

Employment Judge Ferguson

Date: 4 March 2025

REASONS SENT TO THE PARTIES ON
20 March 2025 By Mr J McCormick

FOR THE TRIBUNAL OFFICE