



EMPLOYMENT TRIBUNALS

Claimant: Mr Vitalie Platon

Respondent: South Staffordshire Water Plc

Heard at: Birmingham remotely by video in public **On:** 11 June 2025

Before: Employment Judge Battisby (sitting alone)

Appearances

For the claimant: Mr T Hussain, litigation consultant

For the respondent: Miss Kirsten Barry, counsel

REASONS FOR CASE MANAGEMENT ORDERS

Introduction

1. On 11 June 2025 I heard an application by the claimant to amend his claim and made case management orders with oral reasons on the same date with the written order being sent to the parties on 13 June 2025.
2. On 27 June 2025 the tribunal received an e mail from the claimant's newly appointed solicitors requesting 'detailed written reasons for the judgment'. At my direction the tribunal responded to the effect that no judgement had been given and, on the assumption that reasons for one or more of the orders was being requested, the claimants solicitor were asked to be more specific. On 1 July 2025 They responded to confirm the claimant was seeking reasons for the following two numbered orders:

'1. The claimant's application to amend his claim to add complaints of disability discrimination is dismissed.

2. The claimant's application to amend his claim to specify four protected disclosures in relation to his complaint of automatic unfair dismissal succeeds in part. The alleged protected disclosures made on 11 November 2023 and 28 March 2024 are allowed to be included in the list of issues. The ones allegedly made by e mail on 3 June 2023 and verbally on 22 February 2024 are refused'.

3. Unfortunately, their response was not referred to me until 24 July when I was away on holiday and I have only returned today, so I apologise for the delay.
4. References to page numbers in these reasons refer to the bundle produced running to 105 pages.

The relevant law

5. The claimant's skeleton argument correctly identified the leading authorities as ***Selkent Bus Co Limited v Moore*** [1996] ICR 836 and ***Vaughan v Modality Partnership*** [2021] ICR 535. In considering application to amend, it was necessary for me to weigh the balance of prejudice, injustice and hardship after taking into account all relevant circumstances of the kind referred to in **Selkent**.

Conclusions on the application to amend the disability discrimination claim

6. The claimant was dismissed on 13 May 2024 His claim form was presented on 4 July 2024 after early conciliation concluded on 14 June 2024. At paragraph 8.1 of the claim form, the claimant ticked the box to make a claim of disability discrimination, but no details of the nature of the complaints were made, in contrast to his claims of race discrimination and whistle blowing, where he was more specific and the respondents were able to make a detailed response in their ET3 form.
7. At the previous case management hearing on 14 February 2025 EJ Kight had tried to elicit details of the claims being made from the claimant who was representing himself He said his disability discrimination claim related to the respondent's failure to make reasonable adjustments. Various orders were made including a requirement for the claimant to give further information about his complaint of the failure to make reasonable adjustments and whistleblowing. Subsequently the claimant sought legal advice and his solicitors complied with the orders on 7 March 2025. The claimant also applied to amend his disability discrimination complaint. Instead of making the complaint under s20/21 of the Equality Act 2010 ('EQA'), he sought to bring his complaints under s15 EQA and s19 EQA.
8. The claimant having provided the further information requested in relation to the four whistleblowing complaints he sought to make, the respondent objected to two of them on the basis that they had not been mentioned within the claimants ET1. The respondent did not object to the claimant bringing the remaining two complaints.
9. In the claimant's skeleton argument, much was made of the claimant being Moldovan and having language difficulties, and also the fact that he was representing himself in person. I do not accept it was plausible that ACAS would have told the claimant to simply tick Disability Discrimination box and leave any details to a further date, and that is not what he did regarding his other complaints.
10. When the respondents pressed the claimant 4 further particulars, he produced a long statement running to 19 pages (p85). This was very detailed and well set

out. It contained no mention at all of the disability discrimination complaints, the subject of the amendment application, nor anything remotely near them.

11. The explanation given for his behaviour which led to his dismissal was tonsillitis, which has nothing to do with his disabilities being alleged and which are admitted by the respondent. Surely, if he had felt that his behaviour had been caused by his disabilities he would have been able to articulate that himself in the ET1 and in the long written statement to which I have referred. There is some evidence of his ability to express himself clearly contained within the 2023 grievance and his statement of 11 November 2023 (p69).
12. Accordingly, I do not accept the language barrier was enough of an excuse not to have expressed the basic facts about his disability discrimination claim within the ET1. Further, it has taken some eleven months from April 2024 (the disciplinary hearing) to March 2025 (the amendment application) for the claimant to explain the claim during which time the respondents were completely ignorant of it. The nature of the amendment is very substantial, consisting of two completely new complaints of disability discrimination and they are potentially several months out of time.
13. I do not find the reasons for the delay in making these new complaints to be at all cogent and the inconsistencies give rise to a suspicion of the claimant making up the complaints after the event.
14. The claimant still has many other complaints that he is still able to bring so he is not being denied the ability to prove the ones that he was able to articulate in the ET1 and at the previous case management hearing.
15. All in all and based on the relevant circumstances discussed, I find the balance of injustice and hardship to the respondent in allowing the amendment to bring the disability discrimination claim outweighs that to the claimant in refusing it. Therefore, the application to amend the claim to bring the two complaints of disability discrimination is refused.

Conclusions on the application to bring the four complaints of whistleblowing

16. The respondent accepts the protected disclosures alleged in relation to the claimant's grievances raised on 11 November 2023 and 28 March 2024, but disputes the alleged disclosure made in the email to Nick Brown on 3 June 2023 and during the telephone call with Lauren Shinebaum on 22 February 2024.
17. The respondent asserts prejudice due to the lateness of the allegations and the effect on witnesses' memories, which I accept. The claimant is able to proceed with his claim based on the two substantial disclosures made in the context of the two grievances which are accepted, and the disputed ones really add very little to his claim. I question the plausibility of a disclosure made in 2023 leading to the dismissal in 2025 during which period there were other intervening events and disclosures.
18. Therefore, applying the same balancing exercise as above and the relevant circumstances, I accept the whistleblowing claim may proceed based on the two

protected disclosures as conceded by the respondent, and I refuse permission to add the two disputed ones to the claim.

Employment Judge Battisby
Approved on 28 July 2025

Sent to the parties on:

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For the Tribunal:

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