

FAIR EMPLOYMENT TRIBUNAL

CASE REFS: 3/19FET
22/19
376/19FET
7143/19

CLAIMANT: David Hawthorne

RESPONDENTS: 1. Derry City & Strabane District Council
2. Connor Canning

DECISION ON A PRE-HEARING REVIEW

The decision of the tribunal is set out in the body of the judgement.

CONSTITUTION OF TRIBUNAL:

Employment Judge (sitting alone): Employment Judge Greene

APPEARANCES:

The claimant was represented by Mr T Warnock, of counsel, instructed by Hewitt & Gilpin Solicitors.

The respondents were represented by Mr N Richards, of counsel, instructed by Worthingtons Solicitors.

1. At a Case Management Discussion on 20 August 2019 the claimant applied to amend his claim by providing further details of existing claims and adding a further substantive legal claim.
2. The wording for the proposed amendment was subsequently submitted to the tribunal and was attached to the Notice of Hearing thereto.
3. The respondents opposed the claimant being granted leave to amend his claim.
4. The application to amend the claimant's claims came on for hearing on 24 September 2017.
5. Prior to the hearing the parties had discussed the matter and proposed to the tribunal an agreed approach to deal with this amendment application. The tribunal accepted the proposed course of action from the parties.
6. The parties agreed that the claimant will not seek to amend his existing claims by

adding a claim under the protective disclosure provisions of the Employment Rights (Northern Ireland) Order 1996.

7. The remaining text of the proposed amendment is amended as follows:-
 - (a) The words, "... and as a result of having made protected disclosures" is removed from paragraph 1.
 - (b) Paragraphs 3, 5, 6, 7, 8 and 9 are removed in their entirety including any headings to those paragraphs.
 - (c) In relation to paragraph 10 from, "For example, towards the end of January 2018", to the end of text, "in the site diary for 2018" is removed in its entirety.
 - (d) The remaining paragraphs are accepted as amendments to the claimant's claims by consent.
8. The claimant's representatives will provide the text of the agreed amendment to claims 3/19FET and 22/19 to the Office of the Tribunals by **1 October 2019**.
9. At the Case Management Discussion on 20 August 2019 the tribunal had indicated, with the consent of the parties, that a Case Management Discussion would take place, if possible, immediately after the Pre-Hearing Review to give such others orders and directions as may be necessary to bring this claim on for hearing.
10. Mr Warnock indicated to the tribunal that the claimant will be lodging a further claim in relation to his protected disclosure allegations.
11. The parties were of the conviction that it is a connected matter to the substance of these claims and that, should it be accepted, then an application is likely to be made to consolidate it with the existing claims. In those circumstances the parties submitted that it would not be wise to proceed with a Case Management Discussion as all the necessary steps might require to be amended once the new claim is lodged and accepted.
12. The tribunal accepted this proposal, even though a consequence of that is that the Case Management Discussion will now not take place before 2020 and the listing of the claimant's claim will be further delayed. The parties were aware of that likelihood and are willing to accept it.

Employment Judge:

Date and place of hearing: 24 September 2019, Belfast.

Date decision recorded in register and issued to parties: