

# THE INDUSTRIAL TRIBUNALS

CASE REF: 359/19

**CLAIMANT:** Anonymised Claimant

**RESPONDENT:** Anonymised Respondent

## DECISION ON A PRE-HEARING REVIEW

The decision of the tribunal is that the claimant is granted leave to amend his claim by adding a claim for harassment on the basis of sexual orientation. The tribunal further grants leave to both parties to anonymise these proceedings up to the hearing of this claim. The hearing will therefore be known as anonymised claimant and anonymised respondent.

### CONSTITUTION OF TRIBUNAL

**Employment Judge (sitting alone):** Employment Judge Greene

### APPEARANCES:

**The claimant was represented by Mr B Mulqueen, of counsel, instructed by Peter Bowles & Company Ltd.**

**The respondent was represented by Mr C Hamill, of counsel, instructed by the Directorate of Legal Services.**

1. At a Case Management Discussion on 3 September 2019 I directed that a Pre-Hearing Review would convene to consider whether leave is granted to the claimant to add a claim for harassment on the basis of sexual orientation, if it is found that his claim form does not disclose such a claim.
2. The Pre-Hearing Review issues were:-
  - (1) Whether the claim form discloses a claim for harassment on the basis of sexual orientation.
  - (2) If not, whether leave should be granted to the claimant to amend his claim form by adding a claim for harassment on the basis of sexual orientation.
3. At the hearing on 30 September 2019 I acceded to an application by the claimant without any objection from the respondent to add a third Pre-Hearing Review issue which was:-

- (3) Whether the claimant should be granted permanent anonymity pursuant to the Disability Discrimination Act 1995, as amended, and the Equality Act Sexual Orientation Regulations (Northern Ireland) 2006.
4. The Pre-Hearing Review came on for hearing on 30 September 2019.
5. The Pre-Hearing Review issues were dealt with having regard to the pleadings, agreed documents and oral submission from the parties.
6. On foot of the documents put before the tribunal and the submissions made I am satisfied that:-
  - (1) the claim form does not disclose a claim for harassment on the basis of sexual orientation, and I answer the first Pre-Hearing Review issue in the negative, and
  - (2) the proposed amendment falls into the second category of amendments set out in the decision of **Selkent Bus Company v Moore [1996] ICR 836** and therefore is not subject to scrutiny from the point of view of time-limits. I am also satisfied that there is minimal hardship, if any, to the respondent in meeting this additional claim as it relates to matters that are already the basis of the claimant's claim for direct discrimination on the grounds of his sexual orientation.
7. Accordingly, I answer the second Pre-Hearing Review in the affirmative and I permit this amendment.
8. The claimant sought anonymisation of the claim pursuant to Article 8 of his Convention Rights by reason of his medical condition and his belief that it would cause unfavourable treatment if it were generally known about him. The respondent did not object to anonymisation being granted, but suggested that, if granted, anonymisation should be given to both parties.
9. In relation to the third Pre-Hearing Review issue I grant anonymisation to the parties to this claim up to the hearing. If the claimant wishes the anonymisation to be made permanent the matter will have to be decided by the tribunal hearing the claim.
10. Full oral reasons for my decision were given at the tribunal.
11. The respondent will have 14 days from the date of the issue of this decision to amend its response form.
12. A further Case Management Discussion will convene to give such orders and directions as to prepare this claim for hearing, at a date and time to be fixed.

**Employment Judge:**

**Date and place of hearing: 30 September 2019, Belfast.**

**Date decision recorded in register and issued to parties:**