



EMPLOYMENT TRIBUNALS

Claimant: Mr P Berry

Respondent: Sellafield Limited

HELD AT: Liverpool

ON: 5 July 2017

BEFORE: Employment Judge Horne

REPRESENTATION:

Claimant: Mr S Harper, Friend

Respondent: Ms N Choudry, Solicitor

In this judgment:

- (a) “the December Schedule” means the claimant’s 42-page schedule e-mailed to the tribunal on 22 December 2016; and
- (b) “the October Judgment” means the judgment sent to the parties on 11 October 2016.

JUDGMENT AT PRELIMINARY HEARING

1. The claimant is required to amend his claim form in order to pursue Allegations 1 to 4 in the December Schedule.
2. Permission to amend the claim form in this regard is refused.
3. In any event, the claimant is bound by an admission recorded in the schedule to the October Judgment that no act of discrimination took place after 21 December 2015.
4. Permission to withdraw that admission is refused.

5. The effect of this judgment is that the claimant cannot proceed with any of Allegations 1 to 5 in the December Schedule.
6. Allegations 6 to 15 in the December Schedule, so far as they complain of any discrimination allegedly occurring after 21 December 2015, are struck out on the ground that these allegations are not actively pursued.
7. This judgment does not affect the claimant's ability to pursue the remaining allegations in the December Schedule.
8. Were it necessary for any purpose to determine whether the parties were bound by a judgment (as opposed to an admission) that no act of discrimination took place after 21 December 2015, it is recorded that the tribunal would have reached the following conclusions:
 - 8.1. The October Judgment did not contain a judgment that no act of discrimination took place after 21 December 2015; it merely recorded a concession. There would therefore be no procedural requirement to apply for reconsideration in order to pursue Allegations 1 to 5.
 - 8.2. If the tribunal's conclusion at paragraph 8.1 were wrong, the tribunal would have held that the claimant did apply for reconsideration on 29 November 2016 and that the application was made within the time limit prescribed by rule 71 of the Employment Tribunal Rules of Procedure 2013.
 - 8.3. On reconsideration, the judgment would have been confirmed. It would not have been in the interests of justice to vary or revoke it.
 - 8.4. The claimant would still therefore have been unable to proceed with Allegations 1 to 5 in the December Schedule.

25 September 2017

Employment Judge Horne

SENT TO THE PARTIES ON

27 September 2017

FOR THE TRIBUNAL OFFICE

Note – reasons for the judgment were given orally at the hearing. Written reasons will not be provided unless a party makes a request in writing within 14 days of the date on which this judgment was sent to the parties.