



EMPLOYMENT TRIBUNALS

Claimant: Mr B Adenaike

Respondent: Ministry of Justice

Heard at: Watford On: 5 February 2019

Before: Employment Judge Bloch QC (sitting alone)

Appearances

For the claimant: In person

For the respondent: Mr R Tallaly – Counsel

JUDGMENT AT PRELIMINARY HEARING

1. Dismissal of unfair dismissal complaint

The complaint of unfair dismissal is dismissed on withdrawal.

2. Striking out of disability claim

The complaint of disability discrimination is struck out.

REASONS

1. By notice dated the 17 August 2018 the preliminary hearing was listed for the purposes of identifying the claims and issues.
2. By an email to the Tribunal dated 19 January 2019 the respondents applied to strike out the claim. There were in fact two broad types of claim, the first an unfair dismissal claim and the second a discrimination claim, apparently based on both race and disability.

3. The claimant had considerable difficulty defining the grounds of his discrimination claims. It is apparent from reading the claim form that it is seriously underparticularised and vague in the extreme. There were also potentially serious difficulties in relation to the unfair dismissal claim.
4. That said, at an early stage of the hearing today the claimant confirmed that he was no longer claiming unfair dismissal and wished that part of his claim to be withdrawn. I explored this carefully with him and he confirmed that that was the case. Indeed, this was consistent with the list of issues which he produced for the purposes of the preliminary hearing today.
5. Therefore, the claims which remained were the race and disability discrimination claims.
6. I explored carefully with the claimant the nature of the race discrimination claim and this revealed that the claim was a fairly narrow one. The essence of the claim is that following an altercation between the claimant (who describes himself as black) and a Mr Matthew Chandler (white) a Mr Nuna who terminated the claimant's assignment with the Ministry of Justice ignored what was said (apparently in the claimant's favour) by Manager Joy Atotileto (black) and instead gave attention only to what certain white alleged witnesses said about the incident. Accordingly, the claimant's case is that on grounds of his being black he was treated less advantageously than Mr Matthew Chandler and in particular that the process leading to his assignment being terminated was improperly conducted.
7. The respondents will apparently say that the reason for the termination of the assignment was not merely because of the above altercation but a further incident which occurred (which the claimant maintains was entirely fabricated) where he is alleged to have threatened Mr Matthew Chandler. However, the claimant carefully explained that that part of his claim was not based upon race discrimination. The employees who "conspired" to report this alleged event did so because they were friends with Mr Chandler rather than because of any race discrimination towards the claimant.
8. The dyslexia/disability claim was discussed in detail in the course of the hearing today. The claim form was extremely vague as to what detriment was alleged to have been suffered by the claimant as a result of his alleged condition of dyslexia. Indeed, he appeared to be alleging that the unfavourable treatment arising from his dyslexia was a failure by management to respond to his emails and/or getting the claimant to do the Manager's work. However, in the Tribunal the claimant asserted that this was not his case - the disadvantage was his not being "cross-trained" for other types of work, as were his colleagues in January or February 2017. However, it was plain that not only was this not part of the pleaded claim

but that the claimant was engaged in a high degree of speculation in this regard. An email which he showed me in 2017 showed him alleging that he had not received cross-training because he was agency staff and not in full employment. Indeed quite candidly he accepted that he did not know why he was not cross-trained. He accepted that he had never asserted by email or other correspondence disadvantageous treatment in this regard on grounds of his disability. In all the circumstances it seemed to me that particularly in the absence of any formal application to amend the claim form, as well as the potential time problems in relation to amending this claim (although to be fair, while the claimant initially dated this event as January 2017 he then said it continued until the end of his engagement on the 1 February 2018) it would be unfair to the respondent to allow this claim to be listed as one of the issues in the case. This was a new claim and, moreover, it appeared to me to be highly speculative and inconsistent with the documents and existing pleaded claim. It is entirely a matter for the claimant whether at some or other stage he would, having formulated the point appropriately, seek to amend the claim form. However, there was no such amendment application before me and in the circumstances, given that the basis of the existing complaint of disability was disavowed by the Claimant, in my judgment it should be struck out.

7/3/19_
Employment Judge Bloch QC
Sent to the parties on:
.....9 May 2019.....
For the Tribunal:
.....