



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr Hamilton  
**Respondent:** Saba Park Services UK Ltd

## RECORD OF A PRELIMINARY HEARING

**Heard at:** Watford (in private) **On:** 1 May 2019  
**Before:** Employment Judge Daniels (sitting alone)

**Appearances:**

For the claimant: Mr Lewis (of counsel)  
For the respondent: Ms Chute (of counsel)

## CASE MANAGEMENT SUMMARY JUDGMENT

1. The claimant's claim for breach of contract in respect of a 2018 bonus award has no reasonable prospect of success and is struck out forthwith.
2. The claimant's claim for breach of contract in respect of holiday pay has no reasonable prospect of success and is struck out forthwith.
3. The respondent's application to strike out the claimant's claims for unreasonable conduct and/or breach of a tribunal order is not successful.

## ORDERS

### Made pursuant to the Employment Tribunal Rules of Procedure

1. **Amendment**

- 1.1 By the Tribunal's own motion, the respondent's name is amended to Saba Park Services UK Ltd

2. **Unless Orders**

- 2.1 The claimant is **ordered that unless** he replies to the table of allegations prepared by the respondent at page 113 of the preliminary hearing bundle setting out precisely which cause of action (eg "direct race discrimination")

or “indirect race discrimination”), (as further explained by the respondent in the request dated 5 November 2018), by **29 May 2019**, his claim may be struck out for breach of a tribunal order/orders and/or unreasonable conduct.

2.2 The respondent shall then complete the updated table of issues with the further particulars of the relevant cause of action required, in line with their letter of 5 November 2018 and send this to the claimant by **5 June 2019**.

2.3 The claimant is **ordered that unless** he replies to the updated table of allegations prepared by the respondent above, in full, (as further explained by page 108-112 and the request dated 5 November 2018), by **19 June 2019**, his claim may be struck out for breach of a tribunal orders/orders and/or unreasonable conduct.

2.4 The respondent shall then have until **10 July 2019** to amend its Response, if it wishes to do so, by populating the further particularised (Word format) table completed by the claimant by **19 June 2019** above.

### 3. **Preliminary Hearing 5 September 2019**

3.1 There shall be a 3 hour preliminary hearing listed before EJ Daniels on **5 September** 2019 at 10am to address any further applications brought.

3.2 The respondent has stated that it intends to apply for its costs arising from the above matters and today’s hearing and/or to seek deposit and/or strike out orders in respect of any continuing failure of the claimant to properly plead his case. Any applications that are pursued at that stage should be filed within 14 days prior to the PH.

### 4. **Full Hearing**

4.1 All issues in the case, including remedy, will be determined at a final hearing before an Employment Judge sitting with Members at the Employment Tribunals, Watford, on **27 January 2020** starting at 10 am or as soon as possible afterwards. The claimant(s) and the respondent(s) **must** inform the Tribunal as soon as possible if they think there is a significant risk of the time estimate being insufficient and/or of the case not being ready for the final hearing.

### 5. **Judicial mediation**

5.1 The parties are referred to the “*Judicial Mediation*” section of the Presidential Guidance on ‘General Case Management’, which can be found at: [www.judiciary.gov.uk/publications/employment-rules-and-legislation-practice-directions/](http://www.judiciary.gov.uk/publications/employment-rules-and-legislation-practice-directions/). They must inform each other and the tribunal in writing by 30 June 2019 whether or not they are in principle interested in judicial mediation and if not, why not. If they change their minds, they must inform each other / the other party and the tribunal of this as soon as possible.

## 6. Complaints and issues

- 6.1 The parties must inform each other and the Tribunal in writing **within 14 days of the date this is sent to them**, providing full details, if what is set out in the Case Management Summary section above about the case and the issues that arise is inaccurate and/or incomplete in any important way.
- 6.2 The parties are to agree a List of the Issues in dispute by **31 August 2019**.

## 7. Statement of remedy/schedule of loss

- 7.1 The claimant must by **19 September 2019** provide to the respondent by a document – a “Schedule of Loss” – setting out what remedy is being sought and how much in compensation and/or damages the tribunal will be asked to award the claimant at the final hearing in relation to each of the claimant’s complaints and how the amount(s) have been calculated.
- 7.2 If any part of the claimant’s claim relates to dismissal and includes a claim for earnings lost because of dismissal, the Schedule of Loss must include the following information: whether the claimant has obtained alternative employment and if so when and what; how much money the claimant has earned since dismissal and how it was earned; full details of social security benefits received as a result of dismissal.
- 7.3 The parties are referred to: the Presidential Guidance on pension loss at [www.judiciary.gov.uk/wp-content/uploads/2013/08/presidential-guidance-pension-loss-20170810.pdf](http://www.judiciary.gov.uk/wp-content/uploads/2013/08/presidential-guidance-pension-loss-20170810.pdf);  
If the claimant is claiming for loss of pension, the Schedule of Loss must include the following information: precisely how much is being claimed and on what factual and arithmetical basis. The same applies for any claim for loss of bonus.

## 8. Documents

- 8.1 On or before **19 September 2019** the claimant and the respondent shall send each other a list of all documents that they wish to refer to at the final hearing or which are relevant to any issue in the case, including the issue of remedy. They shall send each other a copy of any of these documents if requested to do so.

## 9. Final hearing bundle

- 9.1 By **31 October 2019**, the parties must agree which documents are going to be used at the final hearing. The respondent must paginate and index the documents, put them into one or more files (“bundle”), and provide the claimant with a ‘hard’ and an electronic copy of the bundle by the same date. The bundle should only include documents relevant to any disputed issue in the case that won’t be in the remedy bundle referred to below and should only include the following documents:
- the Claim Form, the Response Form, any amendments to the grounds of complaint or response, any additional / further information and/or further

particulars of the claim or of the response, this written record of a preliminary hearing and any other case management orders that are relevant. These must be put right at the start of the bundle, in chronological order, with all the other documents after them;

- documents that will be referred to at the final hearing and/or that the Tribunal will be asked to take into account.

In preparing the bundle the following rules must be observed:

- unless there is good reason to do so (e.g. there are different versions of one document in existence and the difference is relevant to the case or authenticity is disputed) only one copy of each document (including documents in email streams) is to be included in the bundle
- the documents in the bundle must follow a logical sequence which should normally be simple chronological order.

## 10. Remedy bundle

- 10.1 The claimant must by **19 September 2019** prepare a paginated file of documents (“remedy bundle”) relevant to the issue of remedy and in particular how much in compensation and/or damages they should be awarded if they win their claim and provide the respondent with a ‘hard’ and electronic copy of it. The documents must be arranged in chronological or other logical order and the remedy bundle must have an up to date schedule of loss at the front of it.

## 11. Witness statements

- 11.1 The claimant and the respondent shall prepare full written statements containing all of the evidence they and their witnesses intend to give at the final hearing and must provide copies of their written statements to each other on or before **21 November 2019**. No additional witness evidence will be allowed at the final hearing without the Tribunal’s permission. The written statements must: have numbered paragraphs; be cross-referenced to the bundle(s); contain only evidence relevant to issues in the case. The claimant’s witness statement must include a statement of the amount of compensation or damages they are claiming, together with an explanation of how it has been calculated.

## 12. Final hearing preparation

- 12.1 On the working day immediately before the first day of the final hearing (but not before that day), by 12 noon, the following parties must lodge the following with the Tribunal:

12.1.1 four copies of the bundle(s), by the respondent;

12.1.2 four hard copies of the witness statements (plus a further copy of each witness statement to be made available for inspection, if appropriate, in accordance with rule 44), by whichever party is relying on the witness statement in question;

12.1.3 three hard copies of any written opening submissions/skeleton argument, by whichever party is relying on them / it;

12.1.4 three hard copies of the following, agreed if possible, by the parties, a neutral chronology, a 'cast list', a reading list.

13. **Other matters**

13.1 The above orders were made and explained to the parties at the preliminary hearing. All orders must be complied with even if this written record of the hearing is received after the date for compliance has passed. Anyone affected by any of these orders may apply for it to be varied, suspended or set aside. Any further applications should be made on receipt of these orders or as soon as possible.

13.2 The parties may by agreement vary the dates specified in any order by up to 14 days without the tribunal's permission except that no variation may be agreed where that might affect the hearing date. The tribunal must be told about any agreed variation before it comes into effect.

13.3 **Public access to employment tribunal decisions**

All judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

13.4 **Any person who without reasonable excuse fails to comply with a Tribunal Order for the disclosure of documents commits a criminal offence and is liable, if convicted in the Magistrates Court, to a fine of up to £1,000.00.**

13.5 **Under rule 6, if any of the above orders is not complied with, the Tribunal may take such action as it considers just which may include: (a) waiving or varying the requirement; (b) striking out the claim or the response, in whole or in part, in accordance with rule 37; (c) barring or restricting a party's participation in the proceedings; and/or (d) awarding costs in accordance with rule 74-84**

2 May 2019

**Employment Judge Daniels**

**Sent to the parties on:**

14 May 2019

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For the Tribunal:

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