



EMPLOYMENT TRIBUNALS

Claimant: Miss K Edwards

Respondent: Automobile Association Developments Ltd

Heard at: Manchester (remote public hearing via CVP)

On: 30 June 2021

Before: Judge Brian Doyle

Representation

Claimant: In person with Miss A Watson, friend

Respondent: Mr C McDevitt, counsel

JUDGMENT

At a preliminary hearing under rule 53 of the Employment Tribunals Rules of Procedure 2013 the Tribunal has made the following judgment and orders:

1. Complaints under the Equality Act 2021 concerning acts occurring before 16 July 2019 are out of time and, while they may be referred to in evidence, they shall not proceed to a final hearing for determination.
2. Complaints under the Equality Act 2021 concerning acts occurring on or after 16 July 2019 and up to and including 4 March 2020 are in time as they are part of conduct extending over a period and, subject to what is decided further below, may proceed to final hearing for determination.
3. Any complaint under section 13 of the Equality Act 2010 (direct disability discrimination) is struck out as having no reasonable prospect of success.
4. Any complaint under section 15 of the Equality Act 2010 (discrimination arising from disability) is struck out as having no reasonable prospect of success.

5. Any allegation or argument under sections 20-22 of the Equality Act 2010 (failure to make reasonable adjustments) in the claim as amended to date is made subject to a deposit order under rule 39 of the Employment Tribunals Rules of Procedure 2013 requiring the claimant to pay a deposit in the sum of £100 **by 29 July 2021** as a condition of continuing to advance that allegation or argument as it has little reasonable prospect of success.
6. Any allegation or argument under section 27 of the Equality Act 2010 (victimisation) in the claim as amended to date is made subject to a deposit order under rule 39 of the Employment Tribunals Rules of Procedure 2013 requiring the claimant to pay a deposit in the sum of £100 **by 29 July 2021** as a condition of continuing to advance that allegation or argument as it has little reasonable prospect of success.

REASONS FOR DEPOSIT ORDER

1. The Tribunal has ordered two deposit orders in this case having accepted the respondent's arguments put forward in its re-amended grounds of resistance dated 18 February 2021 at paragraphs 6.1.27-6.1.63 to the extent only that they address the making of a deposit order as an alternative to a strike out order in respect of the claimant's complaints under section 20-22 (failure to make a reasonable adjustment) and section 27 (victimisation) of the Equality Act 2010.
2. The Tribunal has made a separate deposit for each of the two complaints affected by the order, as the rule now requires. The Tribunal took unsworn oral evidence from the claimant as to her monthly income and domestic commitments. She is in receipt of a relatively low wage for 20 hours per week part-time working. She is also in receipt of disability allowance. She has a mortgage. She supports four children. There was no evidence of other income or of savings or capital. She does not operate her monthly budget on a surplus and it is more usually in deficit. The amount of the deposits therefore reflects a impaired ability to pay more than a relatively low sum by way of deposit, but are set at a level that is more than simply nominal; takes account of there being two deposits ordered; remains affordable; does not have the effect of striking out the claim by a back door; yet sends a clear message to the claimant about the merits of the complaints in question.
3. If the claimant fails to pay the deposit by the date specified (**by 29 July 2021**) the specific allegation or argument to which the deposit order relates shall be struck out.
4. If the Tribunal at any stage following the making of a deposit order decides the specific allegation or argument against the claimant for substantially the

reasons given in the deposit order (as explained above) the claimant shall be treated as having acted unreasonably in pursuing that specific allegation or argument for the purpose of rule 76 (costs order or preparation time order), unless the contrary is shown. In that case, the deposit shall be paid to the other party (or, if there is more than one, to such other party or parties as the Tribunal orders). Otherwise the deposit shall be refunded.

5. If a deposit has been paid to a party (as explained above), and a costs or preparation time order has been made against the claimant in favour of the party who received the deposit, the amount of the deposit shall count towards the settlement of that order.
6. Separate administrative information as to how to pay a deposit order is provided separately.

CASE MANAGEMENT ORDERS

1. To the extent that any part of the claim shall proceed to the final hearing listed for 11-14 October 2021 the following case management orders shall apply.

Documents

2. By **29 August 2021** the claimant and the respondent must send to each other copies of all documents relevant to the issues to be decided at the final hearing. This includes documents relevant to financial losses [and injury to feelings.
3. Documents includes recordings, emails, text messages, social media and other electronic information. You must send all relevant documents you have in your possession or control even if they do not support your case. A document is in your control if you could reasonably be expected to obtain a copy by asking somebody else for it.

File of documents

4. The claimant and the respondent must then agree which documents are going to be used at the final hearing.
5. The respondent must prepare a file of those documents with an index and page numbers. They must send a hard copy to the claimant by **12 September 2021**.
6. The file should contain:
 - a. The claim and response forms, any changes or additions to them, and any relevant tribunal orders. Put these at the front of the file.

- b. Other documents or parts of documents that are going to be used at the hearing. Put these in date order.
7. The claimant and the respondent must both bring a copy of the file to the hearing for their own use.
8. The respondent must bring four more copies of the file to the hearing for the Tribunal to use by 9.30 am on the first morning.

Witness statements

9. The claimant and the respondent must prepare witness statements for use at the hearing. Everybody who is going to be a witness at the hearing, including the claimant, needs a witness statement.
10. A witness statement is a document containing everything relevant the witness can tell the Tribunal. Witnesses will not be allowed to add to their statements unless the Tribunal agrees.
11. Witness statements should be typed if possible. They must have paragraph numbers and page numbers. They must set out events, usually in the order they happened. They must also include any evidence about financial losses and any other remedy the claimant is asking for. If the witness statement refers to a document in the file it should give the page number.
12. At the hearing, the Tribunal will read the witness statements. Witnesses may be asked questions about their statements by the other side and the Tribunal.
13. The claimant and the respondent must send each other copies of all their witness statements by **26 September 2021**.
14. The claimant and the respondent must both bring copies of all the witness statements to the hearing for their own use.
15. The respondent must bring four more copies of the witness statements to the hearing for the Tribunal to use by 9.30 am on the first morning.

Judge Brian Doyle
Date: 30 June 2021

JUDGMENT SENT TO THE PARTIES ON
5 July 2021

FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employmenttribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

**ACCOMPANYING DEPOSIT ORDER
Employment Tribunals Rules of Procedure 2013**

1. The Tribunal has made an order (a “deposit order”) requiring a party to pay a deposit as a condition of being permitted to continue to advance the allegations or arguments specified in the order.
2. If that party persists in advancing that complaint or response, a Tribunal may make an award of costs or preparation time against that party. That party could then lose their deposit.

What happens if you do not pay the deposit?

3. If the deposit is not paid the complaint or response to which the order relates will be struck out on the date specified in the order.

When to pay the deposit?

4. The party against whom the deposit order has been made must pay the deposit by the date specified in the order.
5. If the deposit is not paid within that time, the complaint or response to which the order relates will be struck out.

What happens to the deposit?

6. If the Tribunal later decides the specific allegation or argument against the party which paid the deposit for substantially the reasons given in the deposit order, that party shall be treated as having acted unreasonably, unless the contrary is shown, and the deposit shall be paid to the other party (or, if there is more than one, to such party or parties as the Tribunal orders). If a costs or preparation time order is made against the party which paid the deposit, the deposit will go towards the payment of that order. Otherwise, the deposit will be refunded.

How to pay the deposit?

7. Payment of the deposit must be made by cheque or postal order only, made payable to HMCTS. Payments CANNOT be made in cash.

- 8. Payment should be accompanied by the tear-off slip below or should identify the Case Number and the name of the party paying the deposit.
- 9. Payment must be made to the address on the tear-off slip below.
- 10. An acknowledgment of payment will not be issued, unless requested.

Enquiries

- 11. Enquiries relating to the case should be made to the Tribunal office dealing with the case.
- 12. Enquiries relating to the deposit should be referred to the address on the tearoff slip below or by telephone on 0117 976 3096. The PHR Administration Team will only discuss the deposit with the party that has been ordered to pay the deposit. If you are not the party that has been ordered to pay the deposit you will need to contact the Tribunal office dealing with the case.

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DEPOSIT ORDER

**To: HMCTS Finance Support Centre
Temple Quay House
2 The Square
Bristol
BS1 6DG**

Case Number _____

Name of party _____

I enclose a cheque/postal order (*delete as appropriate*) for £_____

Please write the Case Number on the back of the cheque or postal order

