



EMPLOYMENT TRIBUNALS

Claimant: Mr L Royle

Respondent: Openreach Limited

Heard at: Manchester

On: 6 April 2022

Before: Employment Judge Whittaker

REPRESENTATION:

Claimant: ...In person

Respondent: ...Mr Boyd of counsel

JUDGMENT

The claimant's application for interim relief is dismissed.

REASONS

1. In his application to the Tribunal, the claimant had acknowledged that he did not have the necessary two years' service to claim "ordinary" unfair dismissal. He was employed from May 2021 until the effective date of termination of his employment on 22 February 2023. In his claim form the claimant had not indicated on what basis he was alleging that he had been automatically unfairly dismissed in order to avoid the application of the two year qualifying period. When asked this morning for clarification, the claimant indicated that he was claiming automatic unfair dismissal on the basis that he had been "conducting trade union activities".
2. The claimant was asked whether or not he had considered any of the relevant legislation under the Trade Union and Labour Relations Act 1992. Unfortunately, the claimant confirmed that he had not. The Tribunal read section 152(1)(b) to the claimant, and he confirmed that it was on that basis that the claimant was claiming automatic unfair dismissal. The claimant accepted that "taking part" and "conducting" trade union activities meant exactly the same thing.
3. The Tribunal acknowledged that the claimant had lodged his claim for unfair dismissal within seven days of the effective date of termination. The ET1 was acknowledged by the Tribunal on 28 February 2023.

4. However, under section 161(3) of TULRA 1992 an applicant for interim relief is required to file a certificate from a trade union official within the same seven day period. The Tribunal read out the requirements for that certificate to the claimant, who acknowledged that he was entirely unaware of this requirement. There was no such certificate lodged with the Tribunal file and the claimant did not suggest for a moment that such certificate had been produced and that, for example, it had gone missing or had been misfiled. In fact the claimant confirmed that he was entirely unaware of the need for a certificate to be obtained and produced with his application for interim relief.

5. On that basis the Tribunal explained to the claimant that his claim for interim relief had to be dismissed as it did not meet the statutory requirements set out by section 161 of TULRA 1992.

6. The application for interim relief was therefore dismissed on that basis.

Employment Judge Whittaker

Date: 12th April 2023

JUDGMENT AND REASONS SENT TO THE PARTIES ON
14 April 2023

FOR THE TRIBUNAL OFFICE

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