



EMPLOYMENT TRIBUNALS

Claimant: Mr Ousman Ahmad

Respondent: West London NHS Trust

RECORD OF A PUBLIC PRELIMINARY HEARING

Heard at: Watford (by CVP)

On: 23 October 2024

Before: Employment Judge Alliott

Appearances

For the claimant: Did not attend

For the respondent: Mr B Jones (counsel)

JUDGMENT

1. The judgment of the tribunal is that the claimant's claims are struck out pursuant to rules 37(1)(b) Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 because the manner in which the proceedings have been conducted by the claimant have been unreasonable and vexatious and Rule 47 Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 because of the claimant's failure to attend.

REASONS

2. This public preliminary hearing was listed for today on 23 August 2024 at a preliminary hearing at which the claimant attended by phone.
3. This preliminary hearing was scheduled to deal with the respondent's applications for strike out and/or deposit orders to be made and to deal with time issues in relation to claims for holiday pay and itemised pay statements.
4. The case management order following the preliminary hearing on 23 August 2024, which was sent to the parties on 4 September 2024, states:-

“3. No application to postpone this or future hearings will be considered unless they are set out in writing and accompanied by relevant documentary evidence. The parties have been given an abundance of time as notification of these hearings and warning to make arrangements to ensure they can attend.”

5. Two previous preliminary hearings have been postponed at the claimant's request. The hearing scheduled for 1 February 2024 was postponed due to the claimant requesting reasonable adjustments on account of a speech disability, namely a stammer. (I note that the respondent's position is that during his time working at the respondent employees of the respondent did not observe that the claimant had a stammer during their verbal interactions with him). The hearing scheduled for 25 March 2024 was postponed due to the claimant stating that he was fasting during Ramadan.
6. On 16 October 2024 the claimant emailed the tribunal requesting a postponement of this hearing on the basis that his glasses had broken and that he did not have a password to access the documents for this hearing. A picture of his glasses was attached. They show one arm of the glasses detached. The glasses are manifestly usable and could very easily be subject to a temporary repair with a plaster. I am told that the documents for this hearing were sent to the claimant on 16 October 2024 non-password protected.
7. The application to postpone was refused by regional Employment Judge Foxwell on 22 October on the basis that:

“It would be disproportionate to do so on the grounds relied upon by the claimant.”
8. At 12.01am on 23 October 2024 (today) the claimant repeated his request to postpone this hearing. Reference is made to the claimant's mental health, anxiety and depression and that he is unable to see anything without his glasses. No medical evidence accompanied this application.
9. At 10.00am today I began this hearing. The claimant was not in attendance.
10. At 10.07am on 23 October 2024 the claimant sent an email reply to the CVP link that had been sent to him by Watford Employment tribunal stating:-

“My glasses have worsened so having difficulties joining and trying to fix them currently.”
11. I adjourned the hearing at 10.25am and the clerk emailed the claimant as follows at 10.30am:-

“As per the Judge's direction, your application to postpone has been refused, the hearings start again at 11am. If you can join the hearing at 11am today.”
12. I resumed the hearing at 11.10am. The claimant had not responded and was not in attendance.
13. In my judgment the claimant's assertion that damage to his glasses would prohibit him from participating in this hearing is utterly spurious and unreasonable. Further, the health conditions asserted have not been supported by any medical evidence.
14. I am satisfied that the claimant's conduct is deliberate and a persistent course of conduct in seeking to manipulate the tribunal to postpone hearings. I find that the manner of the claimant's conduct of these proceedings is both vexatious and

unreasonable. In my judgment these proceedings are being pursued to harass the other side. It is noteworthy that the claimant seeks the sum of £500 in the first of his claims. In my judgment the claimant's conduct is an abuse of process in that he is subjecting the respondent and the tribunal to inconvenience, harassment and expense out of all proportion to any gain likely to accrue to him.

15. Further, the claimant only worked three shifts for the respondent. He averaged 5.66 hours per shift. He was paid £26.35 holiday pay which, by my calculation, is likely to be in excess of the small amount of holiday that he had accrued.
16. Having concluded that the claimant's conduct was vexatious I obviously find that it was unreasonable. Further, I find that the claimant's failure to attend today was deliberate.
17. I direct myself as per the IDS Employment Law Handbook "Employment Tribunal Practice and Procedure" at 8.77 that:-

"For a tribunal to strike out for unreasonable conduct, it must be satisfied either that the conduct involved deliberate and persistent disregard of required procedural steps or has made a fair trial impossible; and in either case, the striking out must be a proportionate response – Blockbuster Entertainment Ltd v James [2006] IRLR 630, CA."

18. In addition, I have taken into account that the claimant is a litigant in person. I find that the claimant's conduct has been deliberate, is likely to be repeated in the future and that in all the circumstances striking out the claimant's claims is a proportionate response.

Employment Judge Alliott

Date: 31/10/2024

Sent to the parties on:

12/12/2024

For the Tribunal:

N Gotecha

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>