

THE INDUSTRIAL TRIBUNALS

CASE REF: 3840/19

CLAIMANT: Trevor Keith Johnston

RESPONDENT:

1. Danske Bank
2. Niall McGarry
4. Jennifer Elliott

DECISION ON A PRE-HEARING REVIEW

The unanimous decision of the tribunal is that the respondents withdrew the application for a strike-out in relation to time limitation.

CONSTITUTION OF TRIBUNAL

Vice President (sitting alone): Mr N Kelly

APPEARANCES:

The claimant appeared in person and was unrepresented.

The respondents were represented by Mr Conor Hamill, Barrister-at-Law, instructed by Jones Cassidy Brett Solicitors.

1. This case was set down for a Pre-Hearing Review to determine whether the claim of disability discrimination arising from the failure of the respondents to include the claimant in a transfer to another body, which had occurred on 31 October 2017, had been brought within time and, if not, whether time should be extended.
2. Following discussion and the claimant giving evidence, it appears that the claimant is bringing a claim of an alleged continuing act or acts of discrimination contrary to the Disability Discrimination Act 1995, which commenced in or around July 2017 and ended with the grievance decision and his resignation.
3. That had not been initially clear and in response to an earlier question from the tribunal, the claimant had indicated that his claim under the 1995 Act had referred to the July 2017 decision not to include him in the transfer of staff.
4. As matters have been clarified, the respondents withdrew the application for a strike-out.

5. The respondents were correct to do so. This is an issue which can be dealt with quickly by perhaps one witness on behalf of the respondents who can explain why certain staff were selected and certain staff were not selected for transfer. That evidence will concentrate on whether or not the claimant is correct to allege that the decision not to transfer him had been motivated by his disability or by the consequences of his disability.
6. I stressed to the parties that the applicability of the TUPE Regulations and the issue of whether or not there had been a legal transfer of the claimant to "DAVEY" was massively out of time and had in any event not been pleaded. The circumstances surrounding the decision not to transfer the claimant in 2017 are relevant only insofar as the claimant alleges that the motivation for not including him in the transfer had been his disability or the consequences of his disability and only insofar as that forms part of a continuing act of discrimination.
7. The matter will proceed to hearing in accordance with the previous directions.

Vice President:

Date and place of hearing: 12 September 2019, Belfast.

Date decision recorded in register and issued to parties: