



EMPLOYMENT TRIBUNALS

Claimant: Mr R Harris

Respondent: Commissioner of the Police of the Metropolis

JUDGMENT

The claim is struck out.

REASONS

1 On 19 January 2021 the Respondent applied for the claim to be struck out on the grounds that the manner in which the proceedings had been conducted by the Claimant had been unreasonable and/or that it had not been actively pursued.

The Law

2 Rule 37 of the Employment Tribunals Rules of Procedure 2013 (“the Procedure Rules 2013”) provides,

“(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds -

...

(b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;

...

(d) that it has not actively been pursued.

...

(2) A claim or response may not be struck out unless the party in question has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.”

The Facts

3 The facts giving rise to this application are as follows.

3.1 On 11 June 2020 the Claimant presented a claim form in which he complained of disability discrimination in respect of the Respondent's failure to appoint him to a role having made a formal offer to him on 1 November 2019.

3.2 At a preliminary hearing on 5 November 2019 the Employment Judge listed the case for a hearing on 19 to 21 May 2021 and made the following orders:

- (a) By 3 December 2020 the Claimant was to provide particulars about the sections of the Equality Act 2010 on which he relied and the facts on which he relied in support of the complaint under each section; and
- (b) By 17 December the Claimant was to serve on the Respondent all his medical records relating to his disability and a witness statement in support of his assertion that he was disabled at the material time.

The Judge also directed that if disability was not conceded that a preliminary hearing would be listed in February 2019 to determine the issue of disability.

3.3 The Claimant did not provide the particulars on 3 December 2020. On 9 December the Respondent's solicitor sent the Claimant an email that they had not received the particulars that he had been ordered to provide. She asked him to email them to her. The Claimant did not respond to that email and did not send the particulars.

3.4 On 17 December 2020 the Claimant did not serve the medical records or the witness statement that he had been ordered to serve.

3.5 On 17 December 2020 the Respondent applied for an unless order. The application was copied to the Claimant. The Claimant did not respond to the application.

3.6 Unfortunately, the Tribunal did not deal with that application. By 19 January 2021 the Respondent had not heard any further from the Claimant and he had still not complied with the orders that had been made on 5 November 2020. On 19 January 2021 the Respondent made the application to strike out the claim. That application was copied to the Claimant.

3.7 The Tribunal had a preliminary hearing for this case on the court for 19 February 2021. It occurred to me that that might have been listed in error and that the parties might not be aware of it. As a result, the Tribunal sent the parties an email on 16 February asking them whether they were aware of a preliminary hearing and, if so, what the purpose of the hearing was.

3.8 There was no reply from the parties. They were sent joining instructions for the preliminary hearing on 19 February 2021. Neither party attended the remote hearing.

3.9 The Respondent's solicitor wrote to the Tribunal on 22 February 2021. She said that she had been on leave and had only seen the communications from the Tribunal

when she returned to work on 22 February. She also said that the Respondent had not had any contact from the Claimant since the preliminary hearing in November 2020.

3.10 On 19 February 2021 the Tribunal sent an email to the parties that the Employment Judge was going to deal with the Respondent's application to strike out on paper and would send a decision to the parties the following week.

3.11 The Tribunal has not had any contact from the Claimant after the preliminary hearing on 5 November 2020.

Conclusion

4 The Claimant has been given a reasonable opportunity to make representations on the Respondent's application to strike out his claim. The Respondent sent him a copy of its application on 19 January 2021 and the Tribunal informed him that it was going to be dealt with on paper. He has not made any representations.

5 The Claimant has not complied with the Tribunal's orders. He should have done so over two months ago. He has not provided any explanation for his failure to comply with them. The case cannot progress any further until he does so.

6 The Claimant has not made any contact with the Respondent or the Tribunal since 5 November 2020 despite receiving communications from both the Respondent and the Tribunal. He has not engaged with the process in any way and has not taken any steps to pursue his claim.

7 I am satisfied that the Claimant is not actively pursuing the claim and that his conduct of the proceedings has been unreasonable. The case cannot proceed any further. I cannot think of any reason why the claim should not be struck out.

Employment Judge Grewal

Date 23 February 2021

JUDGMENT & REASONS SENT TO THE PARTIES ON

Date 26 February 2021

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FOR THE TRIBUNAL OFFICE