



EMPLOYMENT TRIBUNALS

Claimant: M A Ogunade

Respondent: Securitas Security Services (UK) Limited

Heard at: Leeds **On:** 26 April 2017

Before: Employment Judge Burton

Representation

Claimant: in person

Respondent: Mrs J Ashley (Solicitor)

JUDGMENT

Pursuant to Rule 37(1)(a) of the Tribunals Rules of Procedure this claim is struck out on the grounds that it has no reasonable prospects of success.

Reasons

1. This is a complaint brought by Mr Adeyami Ogunade against Securitas Security Services (UK) Limited whereby he complains of direct race discrimination.
2. On reading the claim form it was far from clear what the basis of that allegation was and accordingly the matter was listed before me by way of a preliminary hearing on the 18th January 2017 to enable me, amongst other things, to seek to identify the issues that arose.
3. At that hearing I was informed that the Claimant was employed as a security officer. He had no permanent site but was used as a relief officer filling in at sites where the Respondents had the contract to provide security services as required. He was, however, contractually guaranteed 192 hours of work each month. He complained that in August 2016 he had only been given and had only been paid for 170 hours of work and that was the act of less favourable treatment upon which he relied.
4. The Respondents were represented at that hearing, as they are today, by Mrs Ashley, an in house Solicitor, she was not in a position then to confirm the Respondents position in relation to that allegation and so I gave the

Respondents leave to lodge an amended Response in order to explain the Respondents case and I ordered Mr Ogunade to provide further information in relation to his claim by explaining the facts upon which he relied to demonstrate that that act of detriment was by reason of his race.

5. The Respondents lodged an amended Response on the 3rd February 2017 in which they accept that the Claimant was entitled to be given 192 hours of work each month and they accept that he was only paid for 170 hours in August 2016. The explanation that they give for that is that the Claimant had only worked 170 hours that month and that on nine separate occasions in that month the Claimant had been offered other work which would have made up his contractual hours but that he had refused to undertake that work.
6. On the 17th February 2017 the Claimant lodged a document with an accompanying bundle of documents in purported compliance with my earlier direction and he lodged a further document on the 18th April 2017.
7. On perusal of those documents it was very difficult still to understand the Claimants case which seemed, primarily, to be based upon events that occurred since 2010 which he relied upon as being acts of discrimination but which, of course, were not matters that were to be considered by me unless he could show that, in some way, there was a connection between those events and the alleged underpayment of wages in 2016.
8. At the start of this hearing I explained that difficulty to Mr Ogunade and explained that unless he could explain to me why he contended that the act of detriment related to his race I would have to conclude that his claim had no reasonable prospects of success which could lead to his claim being struck out.
9. Mr Ogunade then gave me a very long explanation which was not always easy to follow but I distilled from what he said that effectively he was saying that up until March 2010 he had a permanent site which gave him guaranteed hours of work at the same establishment. He was then removed from that site but that the Respondents failed to explain to him why that had happened. He concluded that that had been an act of discrimination. That lead him to the situation leading up to this claim being lodged whereby he was moved from site to site which lead to the circumstances arising in which he was paid less than his contractual entitlement.
10. Effectively, as I understood his contention, he was saying that the underpayment of wages was the direct consequence of that act of discrimination.
11. Unfortunately that is not the act of discrimination that is before this Tribunal. As the events occurred six years ago such an allegation would be out of time.
12. I therefore conclude that the Claimant has no reasonable prospects of success of proving facts from which a Tribunal could conclude that the alleged act of less favourable treatment related to the Claimants race and, accordingly, that claim has no reasonable prospects of success.

13. Even if I were wrong about that it seems highly likely that the Claimants would be able to provide a non discriminatory reason for that act, namely that the Claimant was not entitled to be paid for hours that were made available to him but which he had refused to work.

Employment Judge **Burton**

Date: 26 April 2017