

RM



EMPLOYMENT TRIBUNALS

Claimant: Mr J Barrow
Respondent: UPS Limited
Heard at: East London Hearing Centre
On: 31 July 2017
Before: Employment Judge Brown

Representation

Claimant: In person
Respondent: Ms A Legat, Solicitor

PRELIMINARY HEARING (OPEN) JUDGMENT

The judgment of the Tribunal is that the claim is struck out because it has no reasonable prospect of success.

REASONS

1 The Claimant brought complaints against the Respondent, his former employer, by a claim form presented on 23 May 2017. On the claim form the Claimant ticked the box saying he was bringing a claim of unfair dismissal. He said that he had been employed from 3 December 2016 to 29 March 2017. In the narrative attached to his claim form, he said that he had been dismissed without notice and that he felt that he had been framed or forced out of the company.

2 The Employment Tribunal wrote to the Claimant on 1 June 2017, explaining that, under *s108 Employment Rights Act 1996*, employees are not entitled to bring complaints of unfair dismissal unless they have been employed for two years or more, except in certain circumstances. The Employment Tribunal asked the Claimant to write to the Tribunal by 12 June 2017, explaining why his complaint of unfair dismissal should not be

struck out. The Claimant did not reply to that letter and the Claimant's complaint of unfair dismissal was struck out by Employment Judge Foxwell. The judgment was sent to the Claimant on 10 July 2017. Also on 10 July 2017, the Tribunal wrote to the Claimant asking him to say what claim, if any, he was pursuing, apart from unfair dismissal.

3 The Employment Tribunal told the parties that the claim had been listed for a one hour hearing today, to consider whether the Claimant had any complaints he could pursue.

4 The Respondent had contended, in its ET3 response form, that it had paid the Claimant one week's notice pay.

5 At today's hearing, the Claimant explained that he was complaining that he had been framed and he was accused of theft before his dismissal. He said that he was complaining about his dismissal and not about other money. The Respondent brought the Claimant's payslips for March 2017 and April 2017 and explained the pay slips showed that the Claimant had been paid one week's notice pay, in lieu of notice, and for any accrued, but untaken, holiday. The Claimant accepted that the payslips were correct, when they were explained to him. In his final payslip, an overpayment for days he did not work, on 14 March, 30 March, 31 March 2017, had been deducted from his final pay.

6 The Claimant confirmed that he was not complaining about the money, but he was complaining about his dismissal and the circumstances surrounding it.

7 In those circumstances, I considered that the Claimant had no claim that had any reasonable prospect of success. He was paid all the money that he was owed on the termination of his employment, including one week's notice pay. He was not entitled to any more notice than one week, under *s86 Employment Rights Act 1996*. The Claimant did not contend that he was entitled to more contractual notice than one week.

8 I therefore struck out the whole of the claim because the Claimant's claim had no reasonable prospect of success.

9 The Respondent indicated that it intended to make an application for costs. I told the Respondent that I would not consider an application for costs today, because the Claimant was in person and it would not be fair to expect him to respond to an application for costs. In any event, the Claimant explained that he was not working. He had been granted remission of his fee when fees were still charged in Employment Tribunals. The Respondent may wish to consider whether it wishes to pursue an application for costs against the Claimant, who is not in work.

Employment Judge Brown

1 August 2017