



EMPLOYMENT TRIBUNALS

Claimants: Mr D Greenhouse
Mrs J Greenhouse

v

Respondents: British Gas
Trading Ltd
Centrica plc

TELEPHONE PRELIMINARY HEARING

Heard at: Watford

On: 26 July 2017

Before: Employment Judge R Lewis

Appearances:

For the Claimants: Mr N Bidnell-Edwards, counsel

For the Respondents: Mr B Brown, Solicitor

JUDGMENT

1. The claims against the second respondent are by consent dismissed on withdrawal.

CASE MANAGEMENT SUMMARY

Listing the hearing

1. After all the matters set out below had been discussed, we agreed that the hearing in this claim would be completed within five days. It has been listed at **Reading Employment Tribunals, 30-31 Friar Street, Reading, Berks RG1 1DY** to start at 10.00 am or so soon thereafter as possible on **Monday 18 June 2018**. The parties are to attend by **9.30 am**.
2. While no formal timetable is yet set for the hearing, this allocation of time is to cover all time required for pre-reading, oral evidence, submissions, deliberation, delivery of judgment and assessing remedy if required.

The complaints

3. By claim forms presented on 27 April and 17 May, the claimants, who are husband and wife, brought complaints which relate to failure to pay them in accordance with an enhanced redundancy scheme known as GSSO. The respondent defended the claims.

The issues

4. I now record that the issues between the parties which fall to be determined by the tribunal are definitively those set out in the agreed list of issues which was available at this hearing. The claimants claim a contractual entitlement to the GSSO payments; further and in the alternative that the failure to pay them in accordance with the GSSO scheme was directly and or indirectly discriminatory on grounds of age.

5. Time/limitation issues

5.1 Day A was respectively 3 March and 30 March. Accordingly, any act or omission which took place before 4 and 31 December 2016 is potentially out of time, so that the tribunal may not have jurisdiction to determine it as a free standing complaint, although it may constitute relevant evidential background.

5.2 Does either claimant prove that there was conduct extending over a period which is to be treated as done at the end of the period? Is such conduct accordingly in time?

5.3 Was any complaint presented within such other period as the Employment Tribunal considers just and equitable?

6. Remedies

6.1 If a claimant succeeds, in whole or part, the tribunal will be concerned with issues of remedy.

6.2 Each claimant seeks payment of the difference between his / her actual redundancy payment and that to which s/he would have been entitled under the GSSO scheme. There may also fall to be considered a declaration in respect of any proven unlawful discrimination, recommendations and/or compensation for injury to feelings, and/or the award of interest.

ORDERS

Made pursuant to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013

1. The above claims are combined.
2. **Amended response/Further information**

- 2.1 The parties are required each to give further information about its case. The purpose of such information is to set out sufficient information about the case to be met, as will enable the tribunal fairly to manage the case, and the other party to understand the case to be answered, such as will enable it to identify documents to be disclosed and witnesses to be called. Neither party has leave to extend the cases already stated.
- 2.2 By **25 August 2017** the claimants are to send to the respondent and the tribunal the following additional information:
 - 2.3 All facts and matters relied upon to make out that there existed, and applied to each of them, the custom and practice relied upon;
 - 2.4 The identity of any actual comparator(s) relied upon in the claim of direct discrimination;
 - 2.5 The material characteristics of any hypothetical comparator;
 - 2.6 In relation to the claim of indirect discrimination, their formulation of the PCP(s) relied upon; the pool for the purposes of comparison, and their formulation of the particular disadvantage in question.
- 2.7 By **29 September 2017** the respondent is to send to the claimants and the tribunal its amended response, in which it is to state (at least):
 - 2.8 Its reply to the matters set out in the claimants' additional information;
 - 2.9 Its formulation of the proportionate means and legitimate aim relied upon in its defence of justification.
3. **Disclosure of documents**
 - 3.1 The parties are ordered to give mutual disclosure of documents relevant to the issues identified above by list and copy documents so as to arrive on or before **27 October 2017**. This includes, from the claimant, documents relevant to all aspects of any remedy sought.
 - 3.2 This order is made on the standard civil procedure rules basis which requires the parties to disclose all documents relevant to the issues which are in their possession, custody or control, whether they assist the party who introduces them, the other party or appear neutral.
 - 3.3 The parties shall comply with the date for disclosure given above, but if despite their best attempts, further documents come to light (or are created) after that date, then those documents shall be disclosed as soon as practicable in accordance with the duty of continuing disclosure.
4. **Bundle of documents**

- 4.1 It is ordered that the respondent has primary responsibility for the creation of the single joint bundle of documents required for the hearing.
- 4.2 To this end, the claimants are ordered to notify the respondent on or before **17 November 2017** of the documents to be included in the bundle at their request. These must be documents to which they intend to refer, either by evidence in chief or by cross-examining the respondent's witnesses, during the course of the hearing.
- 4.3 The respondent is ordered to provide to the claimants a full, indexed page numbered bundle to arrive on or before **15 December 2017**.
- 4.4 The respondent is ordered to bring **sufficient additional copies (at least five)** to the tribunal for use at the hearing, by **9.30 am** on the morning of the hearing.
- 4.5 The parties are at liberty if so advised to prepare a core bundle of a maximum of 75 pages (not including pleadings) of the items most likely to be referred to most often at the hearing. If they do so, they should number it with the same numbering as the pages in the main bundle.

5. Witness statements

- 5.1 It is ordered that oral evidence in chief will be given by reference to typed witness statements from parties and witnesses.
- 5.2 The witness statements must be full, but not repetitive. They must set out all the facts about which a witness intends to tell the tribunal, relevant to the issues as identified above. They must not include generalisations, argument, hypothesis or irrelevant material.
- 5.3 The facts must be set out in numbered paragraphs on numbered pages in chronological order.
- 5.4 If a witness intends to refer to a document, the page number in the bundle must be set out in the reference.
- 5.5 It is ordered that witness statements are exchanged so as to arrive on or before **4 May 2018**.
- 5.6 Each party must bring to the tribunal **at least five additional copies** of the statements which it has served. The parties are reminded of rule 44, which requires a copy of each statement to be provided to the public.

6. Other matters

- 6.1 The claimants are ordered to prepare a cast list for use at the hearing. It must list, in alphabetical order of surname, the full name and job title of all the people from whom or about whom the tribunal is likely to hear.

- 6.2 The respondent is ordered to prepare a short, neutral chronology (cross referenced to the bundle) for use at the hearing.
- 6.3 These documents should be agreed if possible

CONSEQUENCES OF NON-COMPLIANCE

- 1. **Failure to comply with an order for disclosure may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under s.7(4) of the Employment Tribunals Act 1996.**
- 2. **The Tribunal may also make a further order (an “unless order”) providing that unless it is complied with, the claim or, as the case may be, the response shall be struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice or hold a preliminary hearing or a hearing.**
- 3. **An order may be varied or revoked upon application by a person affected by the order or by a judge on his/her own initiative.**

Employment Judge R Lewis

Date: ...20 August 2017.....

Sent to the parties on: