



EMPLOYMENT TRIBUNALS

Between:

Ms Z Sadriyeva
Claimant

and

Larkfleet Limited
Respondent

At an Open Attended Preliminary Hearing

Heard at: Lincoln

On: Monday 22 October 2018

Before: Employment Judge J Blackwell (sitting alone)

Representation

Claimant: In person

Respondent: Mr E Musa, Solicitor

JUDGMENT

1. The case is adjourned on the application of the Claimant.
2. The matter is hereby listed for a preliminary hearing at Lincoln on 10 December 2018, details of which are below.

REASONS

1. The purpose of today's hearing was to determine –
 - (a) Whether, having regard to section 83(2)(a) of the Equality Act 2010, the tribunal has jurisdiction to hear Ms Sadriyeva's claims of unlawful discrimination in respect of the protected characteristics of race, disability and sex. It emerged from discussion that Ms Sadriyeva intends to rely upon the fact that she was engaged under a contract personally to work.

(b) The other issue to be determined today was whether or not the tribunal had jurisdiction to hear Ms Sadriyeva's claims of unlawful discrimination, having regard to the provisions of section 123 of the 2010 Act and in particular subsection (1) thereof, ie were the claims brought within time.

2. Again, it emerged from discussion that the last act of discrimination upon which Ms Sadriyeva wishes to rely is the reference by Larkfleet to the Lincolnshire Police concerning what Larkfleet considered to be harassment by Ms Sadriyeva. The reference by Larkfleet was not actually included within the bundle but must have been on or about 5 December 2017. However, Ms Sadriyeva also alleges that because she had to deal with the police in that regard and that there was further correspondence and telephone calls, a later date is to apply. It is common ground that the date of receipt by ACAS of the EC notification was 18 March and that ACAS issued their certificate on 11 April 2018. Ms Sadriyeva's claim was received by the tribunal on 20 June 2018.

3. The original notification by the tribunal sent to the parties on 21 August 2018 required disclosure of documents by 4 September. Ms Sadriyeva applied for an extension of time to comply with that to 11 September but did not receive a response from the tribunal. The letter of 21 August also required a bundle to be created by 18 September and witness statements to be exchanged by 25 September.

4. Ms Sadriyeva did not comply with any of the directions. Notwithstanding that, she accepts she received the order of 21 August and that she received a letter from the tribunal of 28 September requiring the parties to comply with the case management orders set out in the tribunal's letter of 21 August.

5. Ms Sadriyeva is a litigant in person. She informed me that during the period June to August she had been through a difficult period in which she was made homeless for a period and that she is only now recovering from the ensuing difficulties.

6. Accordingly, she made an application to adjourn today's hearing so that she could produce a witness statement which she says she has in draft and consists of 5 pages. I reminded her that the statement is to address the two issues which I have identified above only. It is not to deal with the merits of the case.

7. Ms Sadriyeva also maintained that there are a number of documents, including one she describes as "my letter of request". She was unable to identify that document because she had brought no documents with her. If she wishes that document to be considered, then she will need to disclose it and it will need to be included within the bundle.

8. Mr Musa opposed the application to adjourn, pointing out correctly that Ms Sadriyeva was in clear breach of tribunal orders and, on her own

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admission, had done nothing between receipt of the tribunal's letter of 28 September reminding her to comply with the orders of 21 August, other than to prepare a draft witness statement, which had not been disclosed.

9. The hearing itself began late because Ms Sadriyeva was late and by the time Ms Sadriyeva's application had been made and responded to by Mr Musa, it was clear that no decision could be reached today having regard to the time left. Accordingly, I have reluctantly come to the view that an adjournment should be permitted. I have warned Ms Sadriyeva repeatedly that she is at risk of bearing the costs of today's adjourned hearing and I have also warned her of the consequences of non-compliance with the orders that follow.

ORDERS

Made pursuant to the Employment Tribunal Rules 2013

1. Ms Sadriyeva is to send to Mr Musa her statement dealing with the issues identified above and she is to do so by not later than **4 pm on 22 November 2018**.
2. Ms Sadriyeva is to disclose to Mr Musa, again by **4 pm on 22 November 2018**, any documents which are relevant to the issues identified above, including transcripts of any audio files on which she intends to rely and the "letter of request" which she was unable to identify today so that they can be included in the trial bundle.
3. If Ms Sadriyeva fails to comply with either or both of the above orders, all of her claims will be struck out without further notice.
4. Provided Ms Sadriyeva complies with both of the above orders, then the matter will proceed to deal with the above two issues at a preliminary hearing. This preliminary hearing is listed at **Lincoln Magistrates Court, The Court House, 358 High Street, Lincoln LN5 7QA on 10 December 2018 at 10:00 with a time estimate of 3 hours**.
5. The case is reserved to Employment Judge Blackwell.

Employment Judge Blackwell
26 October 2018

Notes

- (i) **The above Order has been fully explained to the parties and all**

compliance dates stand even if this written record of the Order is not received until after compliance dates have passed.

(ii) 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.

(iii) 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.

(iv) 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. Any further applications should be made on receipt of this Order or as soon as possible. The attention of the parties is drawn to the Presidential Guidance on ‘General Case Management’:

<https://www.judiciary.gov.uk/wp-content/uploads/2013/08/presidential-guidance-general-case-management-20170406-3.2.pdf>

(v) The parties are reminded of rule 92: “Where a party sends a communication to the Tribunal (except an application under rule 32) it shall send a copy to all other parties and state that it has done so (by use of “cc” or otherwise). The Tribunal may order a departure from this rule where it considers it in the interests of justice to do so”. If, when writing to the Tribunal, the parties do not comply with this rule, the tribunal may decide not to consider what they have written.

Order sent to Parties on

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