



EMPLOYMENT TRIBUNALS

Claimant: Mr T Hosie
Respondent: Eastgate Care Ltd
Heard at: Nottingham
On: Thursday 18 July 2019
Before: Employment Judge Blackwell (sitting alone)

Representation

Claimant: In person
Respondent: Mrs S Young, Group HR Manager

JUDGMENT

The strike out order confirmed by notice sent to the parties on 17 May 2019 is set aside.

REASONS

Issues and the law

1. This is an application by Mr Hosie pursuant to rule 38(2) of the first schedule of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013. Put in simple terms, is it in the interests of justice that the strike out order sent to the parties on 24 April 2019 and notice that it had not been complied with sent to the parties on 17 May 2019 should be set aside.
2. Mr Hosie gave evidence on his own behalf. He accepted that he knew that there were orders to be complied with and that there would be a case management discussion held by telephone. He has not complied with any of the orders sent to the parties on 28 January 2019 nor did he attend on the telephone case management discussion.
3. The matters I have taken into account in reaching this decision are as follows.
4. Firstly, and of high importance, the overriding objective which all tribunal proceedings are governed by.
5. The next matter is Mr Hosie's explanation in respect of non-compliance with

the directions as to remedy and disclosure of documents. As I understand what he says, he puts forward a lack of understanding of what was required.

6. As to the non-attendance on the telephone case management discussion, he explained that he felt that ACAS or the Tribunal itself would represent him. Such explanations are simply not acceptable. Mr Hosie says that he passionately wishes to clear his name yet, since January of this year, he has done absolutely nothing to bring that about.
7. However, it is clear that a fair trial is still possible and that it can proceed within the original timetable and I make directions below reinstating the original hearing date.
8. I warned Mr Hosie that if he does not comply with the directions made below, that will be an end of the matter. This is his last chance.

ORDERS

Made pursuant to the Employment Tribunal Rules 2013

1. The case will be heard by an Employment Judge sitting with Members at the Employment Tribunal Hearing Centre, 50 Carrington Street, Nottingham NG1 7FG on Monday 24 February, Tuesday 25 February and Wednesday 26 February 2020 at 10 am.
2. By not later than 4 pm on Thursday 8 August 2019, Mr Hosie is to:
 - 2.1 set out in writing what remedy the Tribunal is being asked to award. Mr Hosie shall send a copy both to the Tribunal and to the Respondent. The statement shall include any evidence and documentation supporting what is claimed and how it is calculated. The Claimant shall also include information about what steps the Claimant has taken to reduce any loss, including any earnings or benefits received from new employment, and
 - 2.2 Mr Hosie will send both to the Respondent and to the Tribunal a list of any documents that he wishes to refer to at the hearing or which are relevant to the case, and
 - 2.3 Mr Hosie is to give full details of the whistleblowing allegations that he makes which he says led to his dismissal by:-
 - (a) setting out what was said;
 - (b) when it was said; and
 - (c) to whom it was said.
 - 2.4 If Mr Hosie does not comply with any of the above Directions by 4 pm on Thursday 8 August 2019, his claim will be struck out without further notice.
3. The Respondent, if so advised, may serve an amended Response in the light of Mr Hosie's further information about disclosures by not later than 29 August 2019.

4. The Respondent shall also by 29 August 2019, prepare sufficient copies of the documents for the hearing. The documents shall be fastened together in a file so as to open flat and shall be indexed and in a logical order. All pages shall be numbered consecutively. The Respondent shall provide Mr Hosie with a copy of the file and bring 4 copies of the file to the hearing for the use of the tribunal.
5. Mr Hosie and the Respondent shall prepare full written statements of the evidence they and their witnesses intend to give at the hearing. The statements will be exchanged between the parties not later than 26 September 2019.

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.

Employment Judge Blackwell

Date: 23 July 2019

JUDGMENT SENT TO THE PARTIES ON

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