



EMPLOYMENT TRIBUNALS

Claimant: Mr S Aggarwal

Respondent: Menkind Stores Limited

Heard at: Nottingham (by Cloud Video Platform) **On:** 14 December 2020

Before: Employment Judge Brewer

Representation

Claimant: In person

Respondent: Mr T Goldup, Consultant

JUDGMENT

1. All of the claimant's claims are dismissed as follows:
 - a. The claimant's claims for age discrimination, race discrimination and disability discrimination are dismissed on withdrawal.
 - b. The claimant's claim for breach of contract is struck out under Rule 37(1) of the 2013 Rule of Procedure.
2. The hearing scheduled for 11 – 13 October 2021 will not now go ahead.

REASONS

Introduction

1. This case was listed before me for a preliminary hearing in principle to determine the issues and to make any necessary case management orders. MR Aggarwal's claim form set out a narrative and he indicated that he was making claims for discrimination because of race, age and disability. He did not refer to a disability in the claim form nor any reason why any of the things done by the respondent about which he complained, were done because of race, age and disability.

2. On 30 June 2020, Judge Camp ordered Mr Aggarwal to provide certain details by way of additional information. He failed to do that. There was then a telephone preliminary hearing before Judge Ahmed on 28 July 2020. Mr Aggarwal was again ordered to provide additional information about his claims. He again failed to respond.
3. On 9 November 2020 Mr Aggarwal emailed to Tribunal and stated that “I would like to remove the age, race and disability discrimination part from section 8 of my ET1 form. The rest of the form remains the same”. The difficulty with that was that it was entirely unclear what, if any, claims remained if the discrimination claims were not being pursued.

The preliminary hearing

4. At the hearing Mr Aggarwal confirmed that he was no longer claiming age, race or disability discrimination. I explained that I would issue a judgment dismissing those claims on withdrawal.
5. I asked Mr Aggarwal what he was seeking to claim. He explained that he was claiming breach of contract. At the time he presented his claim form, Mr Aggarwal was still employed by the respondent, and in that case the Tribunal did not have jurisdiction to hear a claim for breach of contract. However, his employment terminated in early October 2020 and thus in principle at least he could bring such a claim.
6. I then asked Mr Aggarwal to expand on his breach of contract claim. He explained that he had been required by the respondent to relocate from one store to another. He accepted that the respondent had the contractual right to do that, but he said that the relevant contractual clause required the relocation to be put in writing and that he be given the right to appeal against it. He said that the relocation had not been put in writing and he had not been given the right to challenge the relocation by way of appeal. Those were, he said, breaches of his contract.

Law

7. The Tribunal’s jurisdiction in respect of claims for breach of contract is set out in the **Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994**. By virtue of article 3 of the Order, claims for breach of contract are limited to a claim for damages or any other sum if, among other things, the sum arises or is outstanding on termination of the employee’s employment.

Discussion and conclusion

8. I explained what the Tribunal’s jurisdiction was in relation to breach of contract claims. Mr Aggarwal confirmed that he was not owed any sum money which arose or was outstanding on the termination of his employment. Indeed, he did not say he was owed any money at all. The terms he complains about are procedural; the right to have something in writing and the right to lodge an appeal. Neither of these, in and of themselves, relate to loss of money or gives rise to damages, which Mr Aggarwal accepted.

9. In the circumstances the claim for breach of contract was misconceived and has no prospect (and therefore no reasonable prospect) of success and is therefore struck out under Rule 37(1) of Schedule 1 of the **Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013**.

Employment Judge Brewer

Date: 14 December 2020

JUDGMENT SENT TO THE PARTIES ON

22/12/2020.....

FOR THE TRIBUNAL OFFICE

Note

Written reasons will not be provided unless a written request is presented by either party within 14 days of the sending of this written record of the decision.

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