



EMPLOYMENT TRIBUNALS

Claimant: Mr OM Egbujor

Respondent: Global Banking School Ltd

RECORD OF A PRELIMINARY HEARING

Heard at: East London Hearing Centre **On:** 16 March 2020

Before: Employment Judge Housego

Appearances

For the claimant: In person

For the respondent: Mr M Delaney, solicitor, of Veale Wasbrough Vizards LLP

JUDGMENT

The claims for holiday pay and under S13 of the Employment Rights Act 1996 are struck out.

REASONS

1. In a Judgment dated 23 January 2020, sent to the parties on 27 January 2020 Employment Judge Lewis struck out all the claims of the Claimant save those under S13 of the Employment Rights Act 1996 for wages and for holiday pay.

2. The Claimant subsequently filed a lengthy document for a Case Management Hearing setting out how badly he felt that he had been treated by his line manager, but not addressing any issues that a Case Management Hearing might consider for the 2 remaining claims.

3. I enquired of the Claimant what his holiday pay claim was about. He accepted that he had been paid all holiday pay to which he was entitled.

4. I asked the Claimant if he could set out the issues concerning his claim for wages. His case is that he had asked for a salary of £41,000, larger than £30,000 he had accepted in his contract. He said that the managing director had agreed to review it when he had been in work some time. This had never been done.

5. He said that he was due a bonus. I asked the basis for this. The Respondent provided a copy of the short contract of employment which refers to a discretionary bonus which would be paid annually. The Claimant agreed that this was his contract. Bonus was said to be dependent on performance of the company as a whole, the business division he was engaged with, and on his individual performance.

6. The Claimant started work on 01 February 2019. He left on 20 July 2019, the reason being asserted poor performance. The Claimant says that he was excellent and his line manager had a vendetta against him, so that he should have been awarded a bonus in February 2019, or at the end of the academic year in July 2019. Instead he was dismissed.

7. The difficulty with this case is that the bonus is only described as discretionary, and there was no way of assessing how much a bonus might be, no parameters for its calculation, and no KPIs to use as measurements of success or otherwise.

8. The Respondent wished the remaining claims to be struck out, and this was something I would have done on my own initiative in these circumstances.

9. I explained this to the Claimant, and read to him and explained Rule 37:

“Striking out

37. (1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—

(a) that it is scandalous or vexatious or has no reasonable prospect of success;...

(2) A claim or response may not be struck out unless the party in question has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing...

10. I invited him to address the issue of striking out his claims for holiday pay and for bonus. The Claimant said that this was because the line manager had acted badly towards him, and misled the managing director.

11. I concluded that the Claimant had no reasonable prospect of succeeding in either claim, as his real grievance was about the way he felt he had been treated by his line manager, and that he had no arguable case for a discretionary bonus being a contractual right. He accepted that he had no claim for holiday pay.

12. I therefore struck out both remaining claims.

Employment Judge Housego
17 March 2020