



EMPLOYMENT TRIBUNALS

Claimant: Mr J Wisniewski

Respondent: Volution Ventilation UK Limited

RECORD OF A PRELIMINARY HEARING

Heard at: Reading (in private; by telephone) **On:** 8 April 2020

Before: Employment Judge Anstis (sitting alone)

Appearances

For the claimant: No attendance or representation

For the respondent: Ms A Reindorf (counsel)

CASE MANAGEMENT SUMMARY

Final hearing

- (1) All issues in the case, including remedy, will be determined at a final hearing before an Employment Judge sitting with Members at the **Employment Tribunals, 30-31 Friar Street, Reading RG1 1DX**, on **24-28 May & 1 June 2021**, starting at 10 am or as soon as possible afterwards. A Polish interpreter is required for this hearing.
- (2) The claimant(s) and the respondent(s) **must** inform the Tribunal as soon as possible if they think there is a significant risk of the time estimate being insufficient and/or of the case not being ready for the final hearing.

Further public preliminary hearing

- (3) The matters described at para 5 of the case management order of 2 July 2019 (including the respondent's application dated 25 February 2020) will be determined at a public preliminary hearing by an Employment Judge sitting alone at the **Employment Tribunals, 30-31 Friar Street, Reading RG1 1DX**, on **6 & 7 July 2020**, starting at 10 am or as soon as possible afterwards. A Polish interpreter is required for this hearing.

The claim and the issues

- (4) Today's hearing had been listed as an open preliminary hearing to determine the matters set out at para 5 of the case management order of 2 July 2019. This included the respondent's application dated 25 February 2020 to strike out the claim (or for unless orders).
- (5) The current Covid-19 pandemic means the tribunal cannot for the time being hold in-person hearings. On 6 April 2020 the parties were notified that the hearing was converted to a preliminary hearing for case management purposes, to be held by telephone. The parties were asked to provide telephone numbers that they were contactable on. The claimant's representative did not provide a telephone number and no telephone number for him is held on the tribunal file. An order has been made below for the claimant's representative to provide a telephone number to the tribunal.
- (6) The hearing proceeded in the absence of the claimant or his representative.
- (7) This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was A – audio. A face to face hearing was not held because it is prohibited by the relevant Presidential Guidance and public health requirements. I was not referred to any documents other than those on the tribunal file. The order made is described at the end of these reasons.
- (8) Given that the hearing was not being held in public, and given the absence of the claimant or his representative I did not think that the respondent's application to strike out the claim could properly be considered at this hearing. Ms Reindorf asked me to consider it simply as an application on the papers, but I was concerned that given the late change to the hearing the claimant had not had a proper opportunity to reply to it as required by rule 37(2). As for the question of an "unless order", I did not see how any order for the claimant to provide "proper" particulars of his claim could be made since the question of whether the unless order had been satisfied would then depend on an interpretation of what "proper" particulars might be, and this was too uncertain for inclusion in an unless order.
- (9) I concluded that while these preliminary issues ought to be dealt with before a full hearing, I could not (except for one point) deal with them at the hearing today and they would need to be dealt with at a properly constituted preliminary hearing. Accordingly the matters described at para 5 of the case management order (including the respondent's application of 2 July 2019) will be considered at a further open preliminary hearing to take place on what would have been the first two days of the original listing of the full hearing – 6 & 7 July 2020. The remaining dates of the original listing of the full hearing are cancelled and the full hearing has been relisted.
- (10) It is possible that if the Covid-19 pandemic continues the tribunal will not be able to hold the hearing on 6 & 7 July 2020 in person. The parties are urged to keep up to date with the latest Employment Tribunal Presidential Guidance on arrangements for hearings. If this suggests that the hearing may not be able to proceed in person then the parties are invited to apply as soon as they are can

for the hearing to be dealt with by electronic means, and to put forward proposals for what those electronic means might be.

- (11) The one point I was able to deal with at this hearing was the claimant's application of 4 March 2020 for specific disclosure of documents itemised at points 1-3 of the application, and for a specific means of exchange of documents. This is refused on the basis that I cannot see what relevance the documents could have to the matters to be considered at the preliminary hearing and there is no need for a specific means of exchange of documents.
- (12) No further orders appear to be necessary in preparation for the preliminary hearing.
- (13) The orders at paras 29, 32, 33 and 34 of the case management order of 2 July 2019 are revoked, with the rescheduling of those elements of preparation for the full hearing to be a matter to be considered by the employment judge at the preliminary hearing.

ORDERS

Made pursuant to the Employment Tribunal Rules of Procedure

- 1. The claimant's application of 4 March 2020 for specific disclosure (and for a particular manner of exchange of documents) is refused.
- 2. The orders at paras 29, 32, 33 and 34 of the case management order of 2 July 2019 are revoked.
- 3. Within 14 days of this order being sent to the parties the claimant's representative must provide to the tribunal a telephone number on which he can be contacted.

Employment Judge Anstis

8 April 2020

Sent to the parties on: 18/4/2020

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For the Tribunal: J Moossavi

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