



EMPLOYMENT TRIBUNALS

Claimant: Miss D Gnapi

Respondent: The Walt Disney Company Limited

RECORD OF AN OPEN PRELIMINARY HEARING

Heard at: London Central (via Cloud Video Platform)

On: 1 December 2022

Before: Employment Judge Joffe

Appearances

For the claimant: In person

For the respondent: Mr M Sellwood, counsel

JUDGMENT

1. The claimant's claims are not struck out for failure to comply with orders.

REASONS

1. Full reasons were given orally and will not be provided in writing unless requested by a party within 14 days of this Judgment being sent to the parties.

DISCUSSION

2. The chronology in events in this case is as follows:

2 June 2022: Claim form presented. The claimant said that she had worked for the respondent between 1 June and 1 September 2021. She ticked boxes for race and disability discrimination but provided no particulars other than 'Disney are racist'.

6 July 2022: Parties were sent Tribunal correspondence. Employment Judge Gilbert said that the claims appeared to have been presented out of time and that issue would be considered at a hearing and ordered the claimant to provide particulars of the claims.

23 August 2022: Case management preliminary hearing in front of Employment Judge Isaacson. The present hearing was listed and various orders were made including detailed orders for the claimant to fully particularise her claims and to provide a witness statement for the open preliminary hearing on time issues. The claimant explained about her health conditions and Judge Isaacson told her it was important that she comply with Tribunal orders and if she was not well enough to do so, she needed to explain why to the Tribunal and respondent.

13 September 2022: The claimant sent to the Tribunal, not copied to the respondent, a document providing some further information about her race discrimination claim, although not with the detail requested by Judge Isaacson

27 September 2022: The claimant sent particulars of her disability claim in which she said simply 'failure to make reasonable adjustments'. This again was not in compliance with Judge Isaacson's orders.

28 September 2022: The respondent wrote to the Tribunal applying for an unless order in respect of the particulars of the disability and race claims.

7 October 2022: Judge Isaacson issued the claimant with a strike out warning for failure to comply with orders.

25 October 2022: The claimant requested that the strike out question be considered at a hearing.

8 November 2022: Judge Isaacson ordered that the issue be considered at this OPH listed already to consider the time issue.

3. I decided to consider the strike out for failure to comply with Tribunal orders first. Having decided that it was more proportionate to make the orders below in respect of further medical evidence, I concluded that it was also appropriate to adjourn consideration of the time issues identified by Employment Judge Isaacson to a date to be determined.
4. The claimant told me about her significant mental health problems and produced in the course of the hearing some medical records which substantiated her account. It is these difficulties which she says are preventing her from complying with directions.
5. I must of course take into account the claimant's health in considering what is fair but I also bear in mind that the respondent is equally entitled to a fair trial and that is a trial which occurs within a reasonable period and where the time and resources involved are proportionate to the issues involved. It is very important that medical evidence is obtained which assists the Tribunal in determining whether it will be possible to progress the proceedings within a reasonable timescale.
6. Because of the sensitive nature of the medical information about the claimant, I raised with the parties the possibility that the claimant might wish to be anonymised. The claimant told me that she has spoken about her medical conditions openly on the internet, including on YouTube and she is not troubled if there is further reference to her condition in Tribunal judgments. I did not consider further whether to make a rule 50 order in this case.

CASE MANAGEMENT ORDERS

Medical evidence

1. The claimant will by 4 pm on **16 January 2023** obtain and send to the respondent and the Tribunal a letter or report from a treating doctor which addresses the following questions:
 - 1.1 What health conditions is the claimant suffering from? During what period has she been suffering from these conditions?
 - 1.2 What treatment is the claimant receiving? What treatment do you expect her to receive in the near future?
 - 1.3 Are you able to give a prognosis for the claimant's conditions and/or a time frame for when the claimant will be able to participate in her Employment Tribunal proceedings? That will include in the shorter term responding in a timely way to emails, setting out her claims in detail in accordance with instructions given by a Judge, preparing a statement which explains why she did not present her claims earlier and representing herself at hearings. Ultimately it might include attending a multiple day hearing and giving evidence over a period of some hours.
 - 1.4 If you are not able to give a prognosis and/or a time frame at present, is there a date when you believe it will be possible to do so? When will that be?
 - 1.5 Are there any adjustments you would recommend to allow the claimant to take part in hearings?
2. If the claimant is for any reason unable to comply with the order at paragraph 1 she must write to the Tribunal and the respondent as soon as she is aware that she cannot comply but by **16 January 2023** at the latest, explaining what the problem is.
3. The respondent must by 4 pm on **30 January 2023** write to the Tribunal and the claimant setting out:
 - 3.1 Which applications for strike out it is pursuing and the basis for those applications;
 - 3.2 What directions it proposes.
4. The matter will then be referred to an Employment Judge for consideration.

Variation of dates

5. The parties may agree to vary a date in any order by up to 14 days without the Tribunal's permission, but not if this would affect the hearing date.

About these orders

6. These orders were made and explained to the parties at this preliminary hearing. They must be complied with even if this written record of the hearing arrives after the date given in an order for doing something.
7. If any of these orders is not complied with, the Tribunal may: (a) waive or vary the requirement; (b) strike out the claim or the response; (c) bar or restrict participation in the proceedings; and/or (d) award costs in accordance with the Employment Tribunal Rules.
8. Anyone affected by any of these orders may apply for it to be varied, suspended or set aside.

Writing to the Tribunal

9. Whenever they write to the Tribunal, the claimant and the respondent must copy their correspondence to each other.

Useful information

10. All judgments and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.
11. There is information about Employment Tribunal procedures, including case management and preparation, compensation for injury to feelings, and pension loss, here: <https://www.judiciary.uk/publications/employment-rules-and-legislation-practice-directions/>
12. The Employment Tribunals Rules of Procedure are here:
<https://www.gov.uk/government/publications/employment-tribunal-procedure-rules>
13. You can appeal to the Employment Appeal Tribunal if you think a legal mistake was made in an Employment Tribunal decision. There is more information here: <https://www.gov.uk/appeal-employment-appeal-tribunal>

Employment Judge Joffe
01/12/2022

Sent to the parties on:

01/12/2022
For the Tribunal Office: