



EMPLOYMENT TRIBUNALS (SCOTLAND)

**Case No: 4113774/2021
Held in chambers in Glasgow on 1 June 2022**

Employment Judge Ian McPherson

Mr Graham Frew

Claimant

My Easy Park Glasgow Limited

Respondents

JUDGMENT

The claim is struck out under rule 37 of the Rules contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 on the grounds that the claim has not been actively pursued by the claimant in terms of rule 37(1)(d), and, being a separate ground for strike out in terms of rule 37(1)(c), on the basis that the claimant has not complied with an order of the Tribunal.

REASONS

1. The claimant brought proceedings against the respondents by ET1 claim form presented on 21 December 2021. He complained of unfair dismissal, sought a redundancy payment, and claimed that he was owed notice pay, and holiday pay.

2. No ET response was presented on behalf of the respondents, and on 4 February 2022, an Employment Judge noted that no acceptable response to the claim had been received, and it was therefore possible to issue a judgment without a Hearing, but as there was insufficient information to issue a judgment at that stage, the Judge required the claimant to provide further information within 14 days.
3. Some information was provided by the claimant on 7 February 2022. Thereafter, on 16 February 2022, the Tribunal wrote again to the claimant, advising that the information provided by him was still insufficient, and where he had provided amounts for redundancy pay, notice pay and holiday pay, he had not shown how he had calculated those amounts. He had not included any amount for unfair dismissal, and it was not clear if he was insisting upon that head of claim, or withdrawing it.
4. In those circumstances, the Judge required the claimant to provide further information within 14 days. No reply was received, and a reminder was issued by a Legal Officer, on 11 March 2022, for reply by 18 March 2022. The claimant provided a part reply on 20 March 2022, but clarification was awaited on the other matters raised in the Tribunal's correspondence of 16 February 2022.
5. Accordingly, on 23 March 2022, the claimant was asked to reply on the outstanding matters by 30 March 2022. He failed to do so, and a final reminder was issued by a Legal Officer, on 13 April 2022, for reply by 20 April 2022. On 14 April 2022, the claimant provided a reply about his redundancy pay calculation, an unfair dismissal award, and holiday pay. However, his reply still did not provide all of the information required by the Tribunal on 16 February 2022.
6. In those circumstances, on 26 April 2022, the Judge required the claimant to provide further information within 10 days. It was not possible to issue a Rule 21 default judgment in the claimant's favour, based on the information then available, where that information contained inconsistencies that required to be resolved, before any Judge could consider issuing any judgment in the claimant's favour.
7. In that letter of 26 April 2022, the claimant was advised that he had not clarified matters, nor provided any further documentation, as regards any claim for unfair dismissal, and that any further failure to do so would be taken by the Judge to be a failure to actively pursue any such head of claim, and failure to comply with Tribunal orders and directions, and entitle the Judge to strike out his unfair dismissal claim, under Rule 37, without further notice, unless the claimant requested to be heard at a Final Hearing. He was asked to clarify and confirm his position.
8. No reply was received from the claimant, within 10 days, or at all, and a reminder was issued by the Tribunal, on 18 May 2022, for reply by 28 May 2022.
9. On 26 April 2022, and again on 18 May 2022, the Tribunal gave the claimant an opportunity to give written reasons or to request a Hearing in order to consider why the

claim should not be struck out. He failed to do so, despite the reminder given on 18 May 2022, when the Tribunal gave the claimant a further opportunity to give written reasons by 28 May 2022 or to request a Hearing in order to consider why the claim should not be struck out.

10. Despite these opportunities afforded to the claimant by the Tribunal, he has failed to give any acceptable reason why such a judgment should not now be made or to request a Hearing. The Tribunal therefore strikes out the claim, on the grounds that the claim has not been actively pursued by the claimant in terms of rule 37(1)(d), and, being a separate ground for strike out in terms of rule 37(1)(c), on the basis that the claimant has not complied with an order of the Tribunal.

Employment Judge: Ian McPherson

Date of Judgment: 01 June 2022

Entered in register: 06 June 2022

and copied to parties