



# EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

and

Respondents

Miss S Messi

LVMH Services UK Ltd & others

## JUDGMENT AND ORDER ON PRELIMINARY HEARING

HELD AT: London Central

ON: 4 October 2022

BEFORE: Employment Judge A M Snelson (sitting alone)

On hearing Ms J Coyne, counsel, on behalf of the Respondents, and there being no appearance or representation by or on behalf of the Claimant, the Tribunal determines and orders that:

### JUDGMENT

- (1) The complaint of breach of contract (comprising the claim for 'notice pay' and the complaint (if any) alleging breach of any policy or procedure) is struck out as having no reasonable prospect of success.
- (2) The claim for 'holiday pay' is struck out as having no reasonable prospect of success.
- (3) The claims for sex discrimination, alternatively equal pay, are struck out as having no reasonable prospect of success.
- (4) The claim for direct race discrimination, alternatively race-related harassment, are struck out as having no reasonable prospect of success.
- (5) The claims for victimisation, other than that which relies on the email of 4 May 2022 as the protected act and the decision implemented on 5 May 2022 to terminate the Claimant's engagement as the detriment, are struck out as having no reasonable prospect of success.

**ORDER**

- (1) The Claimant's implicit application to amend the claim form to add a complaint of race discrimination based on the alleged difference between the Claimant's pay and that of the Second Respondent, Ms Millac, is refused.
- (2) A preliminary hearing for case management shall be held by CVP at 09.30 a.m. on 25 November 2022, with one hour allowed.

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**NOTES:**

- (1) Any person who without reasonable excuse fails to comply with an Order to which section 7(4) of the Employment Tribunals Act 1996 applies shall be liable on summary conviction to a fine of £1,000.00.
- (2) The Employment Tribunals Rules of Procedure 2013 (to which any reference below to a rule refers) provide by rule 6 that if an Order is not complied with, the Tribunal may take such action as it considers just, which may include waiving or varying the requirement, striking out the claim or response (in whole or in part), barring or restricting a party's participation in the proceedings and/or awarding costs.
- (3) You may apply under rule 29 for this Order to be varied, suspended or set aside.
- (4) Where reasons have been given orally on any disputed issue, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

**COMMENTARY**

1. The matter came before me in the form of a public preliminary hearing held by CVP for the principal purpose of determining the Respondents' applications for striking-out, alternatively deposit, orders. The Claimant did not attend. The Respondents were represented by Ms J Coyne, counsel.
2. I gave oral reasons for my decisions summarised in the judgment and order above.
3. The effect of my rulings is that the only surviving claim is that which alleges that the First Respondent's decision implemented on 5 May 2022 to end the Claimant's engagement was an act of victimisation.
4. I have decided to make a deposit order in respect of the only surviving claim. Before I do so, the Claimant will be given an opportunity by letter to make representations as to her means and submit evidence in support.
5. The purpose of the hearing on 25 November is to enable the Tribunal to take stock and decide on any outstanding case management questions. By then the Claimant may, or may not, have paid the deposit and so it will be

clear whether there is any remaining claim to prepare for final hearing. Ms Coyne also mentioned that she anticipates instructions to pursue a costs application. If one is made, the Tribunal will need to give thought to how best to manage it<sup>1</sup>, but if the Claimant's one claim remains 'live', it may well make sense to defer the costs dispute until that claim has been finally decided.

6. If the parties can agree arrangements in such a way as to make it unnecessary to proceed with the 25 November hearing, the Tribunal will be happy to vacate (cancel) it.

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EMPLOYMENT JUDGE – Snelson  
04/10/2022

**Judgment entered in the Register and copies sent to the parties on : 04/10/2022**

**For Secretary of the Tribunals**

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<sup>1</sup> If, for example, the Claimant plans to resist the costs application partly on the ground that she has insufficient means to pay any award, it may be necessary to discuss any directions that may be required for the exchange and presentation of evidence about her income and assets.