



EMPLOYMENT TRIBUNALS

Claimants: Kester Charles Bey (1)
Rickardo Nelson (2)

Respondent: Tesco Stores Ltd

Heard at: Watford (in public by video) **On:** 06 December 2024

Before: Employment Judge Housego

Representation

Claimant: Mr Bey in person, Mr Nelson did not participate

Respondent: Hamed Zovidavi, of Counsel

JUDGMENT

1. The claims of Mr Bey are struck out as having no reasonable prospect of success.
2. The claims of Mr Nelson are struck out as not being actively pursued and as having no reasonable prospect of success.

REASONS

1. Mr Bey asked, through his potential representative, Calvin Wilson, for an adjournment, to finalise the financing of his representation, and because, he said, of Mr Bey's mental health difficulties.
2. I refused this request. There was no medical evidence to support it. There was no reason made apparent to me why representation had not been arranged before. Mr Wilson remained in the hearing but took no further part in it.
3. Mr Bey filed his 1st claim on 27 October 2023. He claimed unfair dismissal, race discrimination, disability discrimination and religion or belief discrimination.
4. The claim of unfair dismissal was rejected. This was because the claim form

Cases No: 3312432/2023, 3304182/2024 & 3304183/2024

did not give dates of start and finish of employment, so it did not show that Mr Bey had been employed for two years or more. He did not respond to a request to provide that information and so that part of his claim was rejected.

5. Mr Bey feels strongly about this, and I explored matters with him for that reason. While there is more to it than this, the major things that led to his resignation (with immediate effect on 22 May 2023) were that he was not able to train for a second skill, and the final straw was that after he had been assessed as competent another manager said he was required to be retrained or be reassessed.
6. I indicated to Mr Bey that even if he had responded to the letter from the Tribunal asking for dates of employment (he had been employed for more than two years) I would still have had to strike out the claim of unfair dismissal. This is because there is a three-month period for bringing such a claim. He did not approach Acas until 04 October 2023, and that period of three months ran out on 21 August 2023. It was reasonably practicable for him to bring his claim within that period, and so I would have to strike out the claim as out of time. Even if it had not been reasonably practicable for him to do so by 21 August 2023, time can be extended only for such further period as the Tribunal considers reasonable. The claim was not lodged until 27 October 2023, a further two months later. That further period would not be a reasonable further period.
7. I spent the next hour or more exploring with Mr Bey what his claims were about, as the Particulars of Claim and the further and better particulars filed on 14 November 2024 do not disclose any arguable case. The email deals with both his claims, 3312432/2023 and 3304183/2024.
8. Mr Bey was courteous throughout and did his best to set out what he was unhappy about. He felt that he had been held back by not getting training for a second skill, that management had picked on him about competency issues, and that he had been subject to some harassment related to his protected characteristics of race and religion. He describes himself as Moorish, and always wears a Fez. He says this is connected with both race and his religion (he is Muslim). He says that it was harassment to describe him as looking like Tommy Cooper (a comedian and magician from the 1960's who always wore one).
9. Mr Bey says that his disability is mild dyslexia.
10. Mr Bey was unable to explain why his dyslexia was severe enough to amount to a disability. He was unable to explain what disability discrimination he had suffered. The most he was able to say was that minutes of meetings had to be read back to him, and his requests for them to be changed were not met, on the basis that they provided the gist of what was said and were not transcripts. He did not think them fully accurate, but did not point to any adverse effect from what he said were inaccurate minutes.
11. Accordingly, the claim of disability discrimination has no reasonable prospect of success, as there is inadequate evidence of disability, and if there is such a disability no arguable case of disability discrimination related to it.

12. The claim about lack of training for a second skill could be argued as a breach of mutual trust and confidence, and so support a claim of constructive dismissal. However, for the reasons above, there can be no such claim.
13. Mr Bey could not suggest any reason why this was connected with race or religion, and so the claim of race discrimination and religion or belief discrimination has no reasonable prospect of success. It is also out of time, and there is nothing in what Mr Bey said that could lead to a conclusion that it was just and equitable to extend time.
14. The harassment claim did not have any dates or names attached to it. It is unconnected with training or competence issues, and so is even more out of time. It is not referred to in the Particulars of Claim or the 14 November 2024 further and better particulars email. It would need leave to amend to include it, and there is no reasonable prospect of that being granted.
15. The EAT has made it clear that before a claim is struck out the judge must try to find out what it is¹. I have done my very best to do so, but could get no further than this, although the Particulars of Claim and email of 14 November 2024 are lengthy. There is a limit to what a judge is expected to do for a litigant in person², and I have exceeded that limit in my efforts to help Mr Bey.
16. For these reasons I strike out Mr Bey's claims.
17. Mr Nelson had taken no part in his case until today. Mr Bey had put it in for him, as a multiple case. Today, Mr Nelson appeared at the Tribunal, when this was a virtual hearing, as he had been informed. He then left and went to the bank. I had him telephoned and asked that he return to the Tribunal there to use a video in a courtroom. He was only five minutes away, and he did so. Unfortunately, there was no room available, and he returned to the bank. Mr Bey told me that Mr Nelson has only a simple mobile phone which did not receive emails, and that he had no internet where he lived, and no computer. I ascertained the telephone number so that he could telephone in. By now he had turned off his telephone and did not respond to a voicemail message left by the clerk.
18. The claim form submitted by Mr Bey on behalf of Mr Nelson is incomprehensible in terms of any claim that can be brought to this Tribunal. It seemed to stem from an assault in August 2023, or possibly 2016, but no detail was given, nor any reason why it might be relevant to a dismissal on 15 February 2024, which the Respondent said was on capability grounds after five capability meetings. Mr Nelson had previously brought a claim 3311866/2020 which had been struck out and the Respondent said appeared to be similar.
19. The claim is of unfair dismissal, age discrimination and race discrimination. There is nothing related to age in the claim form other than a date of birth of 09 March 1958, and no indication of Mr Nelson's race, or why race might be connected to his dismissal.

¹ Cox v Adecco & O'rs UKEAT/0339/19/AT(V)

² Marrufo v Bournemouth Christchurch and Poole Council (PRACTICE AND PROCEDURE) [2020] UKEAT 0103_20_0312 (03 December 2020)

Cases No: 3312432/2023, 3304182/2024 & 3304183/2024

20. Without Mr Nelson to explain the claim can have no reasonable prospect of success, and he had every opportunity to do so. He chose instead to turn off his phone and continue with his banking.

21. I dismiss his claims as having no reasonable prospect of success and as not being actively pursued.

Date 06 December 2024
Employment Judge Housego

JUDGMENT & REASONS SENT TO THE PARTIES ON
8/1/2025

N Gotecha
FOR THE TRIBUNAL OFFICE