



EMPLOYMENT TRIBUNALS

Claimant: Mr N Benhalla

Respondent: Interserve FS (UK) Ltd

Heard at: London South Tribunal **On:** 24 May 2017

Before: Employment Judge Freer

Representation

Claimant: Mr J Sykes, Advocate

Respondent: Mr P Gurnham, Counsel

JUDGMENT FROM A PRELIMINARY HEARING

It is the judgment of the Tribunal that:

- 1. The Claimant's application to extend the time for compliance with the order of Employment Judge Kurrein of 22 December 2016 to allow an impact statement and additional medical material relating to an alleged second and separate disability of a left knee injury is refused. The Claimant's disability discrimination claim will proceed on the basis of the single disability only of Ankylosing Spondylitis in respect of which the Respondent has accepted was a disability at the material times;**
- 2. It was confirmed on behalf of the Claimant that the victimisation claim does not rely upon the Claimant's grievance as an alleged protected act;**
- 3. With regard to the Claimant's claims of direct race discrimination and race harassment, the Claimant's application to amend his Particulars of Claim to include paragraphs from a document entitled 'further information' used in the Claimant's previous claim to this Tribunal is refused;**
- 4. The Respondent's application to strike out the Claimant's claims of direct race discrimination and race harassment is refused but the application for a deposit order is granted, the details of which are contained in a separate order.**
- 5. The Respondent's application for a strike out of the Claimant's claims of**

- direct race discrimination and race harassment on the basis that they are out of time is refused, but the application for a deposit order is granted, the details of which are contained in a separate order;
6. The Claimant's reference to a knee injury in the Particulars of Complaint at paragraphs 8.3, 8.4, 8.5 and 8.5 shall remain as there may be some overlap between that condition and the Claimant's pleaded disability of Ankylosing Spondilitis;
 7. The Respondent's application for a strike out or deposit order relating to the Claimant's claims of disability discrimination on the basis of applicable time limits is refused and time jurisdiction will remain as an issue to be determined at the full hearing of this matter;
 8. The Claimant's claim of discrimination arising from disability is sufficiently pleaded in paragraphs 8.3, 8.4, 8.7, 8.9, 8.13 and 8.15 of the Particulars of Complaint and the claim shall be restricted to the matters addressed in those paragraphs;
 9. The Claimant's claim of a failure to make a reasonable adjustment is sufficiently pleaded;
 10. The Respondent's application for a strike-out or a deposit order in respect of all the Claimant's disability discrimination claims, which are claims of direct discrimination, discrimination arising from disability, harassment, and a failure to make reasonable adjustments, is refused;
 11. The Claimant's claim of unauthorised deduction from wages is dismissed upon withdrawal;
 12. The Claimant's claims of victimisation relating to disability and race are a matter of evidence for the full hearing and the Respondent's application for a strike-out or a deposit order is refused.

Employment Judge Freer

Date: 07 July 2017

Note

Reasons for the judgment having been given orally at the hearing, 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.