



## EMPLOYMENT TRIBUNALS

**Claimant**

**Mr P Smith**

v

**Respondent**

**College of North West London**

## PRELIMINARY HEARING

**Heard at: Watford**

**On: 16 March 2017**

**Before: Employment Judge Smail**

**Appearances:**

**For the Claimant: Mr I Sen, Lay representative**

**For the Respondents: Mr G Anderson, Counsel**

## JUDGMENT

1. The claims of redundancy and unfair dismissal are struck out as having no reasonable prospects of success.

## REASONS

1. The claimant was engaged by the respondent as a lecturer in automobiles and heavy vehicles between 23 November 2015 and 31 July 2016. Accordingly his length of service is less than the two years required for a redundancy payment and the right to claim unfair dismissal.
2. The tribunal spent some time looking at whether the claimant had made in his ET1, a claim for automatic unfair dismissal under Regulation 6 of the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002. In particular whether the reason or principal reason for the claimant's dismissal was that he had alleged that the employer had infringed these regulations.
3. Whilst there was some mention in the claim form and the appeal that the dismissal amounted to a breach of the regulations, the allegation was not the requisite victimisation one that the reason for the dismissal was because breach of the regulations had been alleged. The reason alleged for the dismissal was a

redundancy but that the selection for redundancy was unfair. Regulation 6 of the 2002 Regulations provides a limited right to claim automatic unfair dismissal designed to protect against victimisation, in effect. This is not the case the claimant wished to bring.

4. Unfortunately, because he does not have two years qualifying service, the claimant is unable to bring claims for a redundancy payment and for unfair dismissal.

## CASE MANAGEMENT SUMMARY

### Listing the hearing

1. There will be a full merits hearing of the remaining claims on 21 July 2017 with a time estimate of 3 hours. The claim will be heard at Watford Employment Tribunal, 2<sup>nd</sup> Floor, Radius House, 51 Clarendon Road, Watford WD17 1HP.

### The issues

2. I now record that the issues between the parties which will fall to be determined by the Tribunal are as follows:
3. **Notice**
  - 3.1 Whether the claimant is owed the balance of two months notice, having been given five months notice of confirmation of expiry of his fixed term contract.
4. **Holiday pay**
  - 4.1 Whether the claimant has any unpaid, accrued but untaken holiday pay.
5. **Overtime**
  - 5.1 Whether the claimant is owed any overtime.

## ORDERS

### Made pursuant to the Employment Tribunal Rules 2013

1. **By 7 April 2017** the claimant must re-serve on the respondent all calculations and supporting documents he relies upon in support of his claims foresaid.
2. The respondent must disclose to the claimant all documents and calculations it relies upon in answer to the claimant's claims **by 21 April 2017**.

3. The claimant may reply to the respondent's position **by 5 May 2017**.
4. **Bundle of documents**
  - 4.1 The respondent will collate a bundle of documents for use at the hearing. It will serve a copy of the bundle on the claimant, with it is hoped an agreed index, by **30 June 2017**.

**CONSEQUENCES OF NON-COMPLIANCE**

1. Failure to comply with an order for disclosure may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under s.7(4) of the Employment Tribunals Act 1996.
2. The tribunal may also make a further order (an "unless order") providing that unless it is complied with, the claim or, as the case may be, the response shall be struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice or hold a preliminary hearing or a hearing.
3. An order may be varied or revoked upon application by a person affected by the order or by a judge on his/her own initiative.

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**Employment Judge Smail**

Sent to the parties on:

15 April 2017

For the Tribunal:

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