



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr M Dar

**Respondent:** Druck Limited

## RECORD OF A PRELIMINARY HEARING

**Heard at:** Nottingham (by telephone)      **On:** 8th January 2019

**Before:** Employment Judge Ayre (sitting alone)

### Appearances

For the claimant: In person

For the respondent: Mr R Phillips, solicitor

## JUDGMENT

The claim for breach of contract is dismissed upon withdrawal.

## CASE MANAGEMENT SUMMARY

### Record of discussion at preliminary hearing.

- (1) At the time that he presented this claim, the claimant was still employed by the respondent. During the course of this preliminary hearing the claimant informed the Tribunal that he has now resigned and is going through a period of early conciliation with a view to bringing a second claim against the respondent.
- (2) The respondent sought further information in relation to a number of the complaints made by the claimant as part of the current claim.
- (3) In light of the above it was agreed that the claimant would be ordered to provide further information in relation to the current claim, and that there would then be a further preliminary hearing for case management.

### Further Preliminary Hearing for Case Management

- (4) There will be a further preliminary hearing to :-

- (i) Consider whether any new claim presented by the claimant should be consolidated with this claim;
  - (ii) Identify the issues in both claims;
  - (iii) Consider whether the final hearing in this claim, which is currently listed for **2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> December 2019**, should proceed, or whether a longer hearing is required, taking account of any new claim which may be consolidated with this one; and
  - (iv) Make case management orders.
- (5) The preliminary hearing will, by agreement, be an attended hearing and will take place at **5a New Walk, Leicester, LE1 6TE, on Thursday 16 May 2019 at 2:00pm, in private**. It has been given a time estimate of 2 hours.

### The claim

- (6) By claim form presented on 18<sup>th</sup> August 2018, following a period of early conciliation from 19 June 2018 to 19 July 2019, the claimant brought complaints of unfair dismissal, breach of contract, race discrimination, unlawful deduction from wages, and that he was subjected to a detriment contrary to section 44 of the Employment Rights Act 1996 (health and safety).
- (7) All of the claims are resisted by the respondent.

### Discussion of the issues

- (8) The respondent indicated that it was not clear what protected characteristics the claimant was relying on in relation to his complaints of discrimination. The claimant clarified during the preliminary hearing that he is relying upon the following protected characteristics:-
- (i) Colour (section 9(1)(a) of the Equality Act);
  - (ii) Religion (section 10(1) of the Equality Act); and
  - (iii) Nationality (section 9(1)(c) of the Equality Act).
- (9) The respondent also sought further information in relation to the discrimination and section 44 ERA claims, and the claimant was ordered to provide these (see paragraph 3.1 below).
- (10) The claimant informed the Tribunal that he did not wish to pursue the claim for breach of contract, and that claim was withdrawn. The respondent applied for the claim to be dismissed, and the claimant did not object to this. The claim for breach of contract is therefore dismissed upon withdrawal.
- (11) The claimant confirmed that he did wish to pursue his claim under section 44 of the Employment Rights Act 1996. The claimant relies on section 44(c) and alleges that he brought to the respondent's attention circumstances connected

with his work which he reasonably believed were harmful or potentially harmful to health or safety in the circumstances set out in section 44(c). The claimant alleges that he raised health and safety concerns with line leader Paresh Vitha but has so far failed to provide details of those concerns. The respondent sought further particulars of this part of the claim, and the claimant is ordered to provide them (see paragraph 3 below).

- (12) The detriments alleged by the claimant in relation to the section 44 claim are that before and on 10 April 2018 Mr Bryan Edwards:-
- (i) shouted at him;
  - (ii) forced him to print a sheet;
  - (iii) gave him a bad look; and
  - (iv) subjected him to a hostile environment.
- (13) The claimant is also pursuing a claim for victimisation under the Equality Act. He was unable at the preliminary hearing to identify the protected act (as defined in section 27(2) of the Equality Act) that he relies upon in support of this claim and has been ordered to provide further particulars of this element of his claim.

#### Other matters

- (14) The attention of the parties is drawn to the Presidential Guidance on 'General Case Management', which can be found at:  
[www.judiciary.gov.uk/publications/employment-rules-and-legislation-practice-directions/](http://www.judiciary.gov.uk/publications/employment-rules-and-legislation-practice-directions/)
- (15) The parties are reminded of rule 92: "*Where a party sends a communication to the Tribunal (except an application under rule 32) it shall send a copy to all other parties, and state that it has done so (by use of "cc" or otherwise)...*". **If, when writing to the tribunal, the parties don't comply with this rule, the tribunal may decide not to consider what they have written.**
- (16) The parties are also reminded of their obligation under rule 2 to assist the Tribunal to further the overriding objective and in particular to co-operate generally with other parties and with the Tribunal.
- (17) The following case management orders were uncontentious and effectively made by consent.

## ORDERS

### Made pursuant to the Employment Tribunal Rules of Procedure

#### 1. Suspension of current case management orders

- 1.1 The case management orders sent to the parties on 10 September 2018 are hereby suspended.

- 1.2 Further case management orders will be made at the preliminary hearing on 16 May 2019.

## 2. Complaints and issues

- 2.1 The parties must inform each other and the Tribunal in writing **within 14 days of the date this is sent to them**, providing full details, if what is set out in the Case Management Summary section above about the case and the issues that arise is inaccurate and/or incomplete in any important way.

## 3. Further information

- 3.1 The claimant shall, no later than **6<sup>th</sup> February 2019**, send to the respondent and to the Tribunal:-

- 3.1.1 A list of each of the alleged acts of discrimination, identifying in relation to each act:-

- 3.1.1.1. The date of the act;
- 3.1.1.2. The nature of the act – i.e. what happened;
- 3.1.1.3. Why it amounted to less favourable treatment;
- 3.1.1.4. Which protected characteristic the claimant is relying on; and
- 3.1.1.5. Which type of discrimination (egg victimisation, indirect discrimination) the claimant says it amounts to.

- 3.1.2 Full details of the health and safety concerns that the claimant says he raised with the respondent in relation to his section 44 claim, including:-

- 3.1.2.1. The date he raised the concerns; and
- 3.1.2.2. The nature of the concerns raised – namely what circumstances connected to his work the claimant reasonably believed were harmful or potentially harmful to health or safety.

- 3.1.3 Full details of the protected act the claimant relies upon for his victimisation claim.

## 4. Other matters

- 4.1 The above orders were made and explained to the parties at the preliminary hearing. All orders must be complied with even if this written record of the hearing is received after the date for compliance has passed.
- 4.2 Anyone affected by any of these orders may apply for it to be varied, suspended or set aside. Any further applications should be made on receipt of these orders or as soon as possible.

- 4.3 The parties may by agreement vary the dates specified in any order by up to 14 days without the tribunal's permission except that no variation may be agreed where that might affect the hearing date. The tribunal must be told about any agreed variation before it comes into effect.
- 4.4 **Public access to employment tribunal decisions**  
All judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.
- 4.5 **Any person who without reasonable excuse fails to comply with a Tribunal Order for the disclosure of documents commits a criminal offence and is liable, if convicted in the Magistrates Court, to a fine of up to £1,000.00.**
- 4.6 **Under rule 6, if any of the above orders is not complied with, the Tribunal may take such action as it considers just which may include: (a) waiving or varying the requirement; (b) striking out the claim or the response, in whole or in part, in accordance with rule 37; (c) barring or restricting a party's participation in the proceedings; and/or (d) awarding costs in accordance with rule 74-84.**

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Employment Judge Ayre

11 February 2019

Sent to the parties on:

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For the Tribunal:

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