



## EMPLOYMENT TRIBUNALS

Claimant

Respondent

v

Mr. A. DiAngelo

Reed Smith LLP

## PRELIMINARY HEARING

Heard at: London Central remote hearing (CVP)

On: 21 May 2021

Before: Employment Judge Goodman

### Appearances

For the Claimant: did not attend

For the Respondent: Ms S. Jolly Q.C.

## JUDGMENT

1. The race discrimination claim is struck out because it has already been adjudicated.
2. The remaining claims are not struck out under rule 37, whether for want of compliance with orders or want of prosecution, but some are subject to an unless order as appears below.

## ORDERS

1. **UNLESS** by the **14 June 2021** the claimant complies with orders 2.1 and 2.2 made 18 December 2020, the disability claims under sections 13, 15, 20, 21 and 26 of the Equality Act 2010 **will stand dismissed without further order.**
2. There will be a further open preliminary hearing on **7 July 2021** to decide:
  - 2.1 whether the claimant was a disabled person at the material times (if not struck out under 1 above)
  - 2.2 Whether the respondent made unauthorised deductions from wages between September 2019 and February 2020.
  - 2.3 Whether the claimant should be ordered to pay a deposit as a condition of proceeding in his victimisation claim.

3. The **final hearing on 3-5 August** is vacated. The final hearing of remaining claims will be listed on 7 July.
4. The claimant is by **21 June** to send the respondent and the tribunal a revised calculation of the unauthorised deductions claim as set out in paragraph 43 of the reasons below, together with copies of documents supporting the calculation, such as payslips, diaries, sick notes and bank statements, including post termination payments by the respondent.
5. By **28 June** the respondent is to send the claimant any emails or other documentary materials about the disputed payments, and a counter schedule setting out their own calculation of what was payable to the claimant in these months.
6. If the disability claims have not been struck out, the respondent is prepare and file an electronic hearing bundle for the disability issue by 28 June. If the claimant remains without access to email they must also send him a hard copy.
7. The hearing on 7 July is remote. If the claimant is still without electricity for his laptop by that date, he should inform the tribunal in good time so that arrangements can be made for him to join the remote hearing at the tribunal premises.

## REASONS

1. Today's hearing was intended to decide whether the claimant was a disabled person, but as there has been little progress in the case management timetable, it was redesignated to decide whether the claims should be struck out.
2. The claimant was a trainee solicitor for the respondent, a large multinational firm of solicitors. He started his training contract there on 20 August 2013. The contract was first extended after he hurt his back in a car accident, and thereafter because other health conditions led to him taking so much time off work sick that he could not gain the required experience. The training contract finally expired on 12 February 2020.
3. Just before that date the respondent commenced an investigation into whether the claimant had in fact attended work in the week beginning 6 January 2020. Working from swipe card records, computer records, emails, and time recording, they suspected he had dishonestly represented that he had been at work when he had not. There was an investigation meeting on 31 January 2020. The claimant suffered chest pains and left abruptly. He did not return before his contract expired, and he did not attend a disciplinary meeting on 13 February. He had been admitted as in patient to a local hospital on 10 January.
4. On 25 July 2020 he presented a claim to the employment tribunal that he had been discriminated against because of race and disability. The narrative claim form included some events in 2016, moving on to conversations in November 2019 when he was applying for a post as an associate within the respondent firm, and then to

events of January 2020. Within the narrative he complained of access to toilets, and pressure to work late, connected with his ulcerative colitis. He listed the conditions causing disability: ulcerative colitis, sleep apnoea, non-rem parasomnia, depression, migraine, restless legs syndrome, and rheumatic pains in hips, knees, backs (sic) and hands.

5. The respondent responded defending the claims, and seeking clarity as to what was alleged, including which of the several health conditions listed was connected to the claim of disability discrimination and failing to make reasonable adjustment for disability. They raised the jurisdiction point that anything that occurred before 11 February 2020 (having regard to the early conciliation period) was out of time. They also said that the events of 2016 were subject to issue estoppel, as the claimant had already presented an employment tribunal claim in 216 which had concluded later that year.
6. There was a remote case management hearing on 11 November 2020 before Employment Judge E. Burns. The claimant had asked for a postponement and sent a doctor's note saying he was unfit for work; Regional Employment Judge Wade refused the postponement because it was a short remote hearing and the note did not say he was not fit for such a hearing. The claimant joined by telephone and said he would be back in a few minutes, but did not participate further although the line remained open during the hearing. Judge Burns made case management orders preparing for an open preliminary hearing on 16 March 2020 to decide disability and issue estoppel strike out, with a final hearing on 2-5 August 2020. She allowed the claimant 14 days to apply to vary the orders, given his apparent absence from the hearing, but he did not apply.
7. Initially there was some progress. The respondent sent a request for further information. The claimant answered by 20 January 2021 as ordered, although in fact all he did, rather than answering specific questions, was to send the previous grounds of claim with paragraph numbers inserted. He also sent a revised detailed schedule of loss (similar to the one lodged in October), seeking £45,000 injury to feelings, and between £206,000 and £1,446,000 (worst case scenario) for loss of earnings, and another £870,000 for care.
8. He did not however send the respondent his general practice records and a witness statement about his disability by 12 February 2021 as ordered. The timetable then stalled. Without the evidence about his health the respondent could not file any amended response indicating whether disability was admitted, a step they had to take by 5 March. Faced with this, on 8 March Employment Judge Baty postponed the open preliminary hearing from 16 March to today, and varied the timetable dates so that steps preparatory to the preliminary hearing would be completed by 30 April.
9. On 11 May, the claimant still not having complied with orders as to GP records and a witness statement, the respondent asked the tribunal to keep the preliminary hearing date to hear an application to strike the claims out. The disability issue could not be tried as the claimant had not disclosed medical records or information.

10. On 16 May Judge Burns directed that the issues for today would be whether the claim should be struck out under Rule 37(1)(d), and whether part should be struck out because it had already been litigated.

11. The claimant has from time to time given explanations for his delay.

11.1 On 25 January 2021, a few days after sending the respondent the schedule of loss and the numbered version of the claim form, the claimant wrote to say that due to a flood the fuse box at his home had been damaged; he now had no access to electricity and could not charge his phone or computer. He hoped it would be fixed in 2 weeks. Since then, until this morning, he has corresponded with the respondent and the tribunal by posting hand written letters.

11.2 On 11 February 2021 the claimant sent the respondent (it arrived on 19 February) a GP fit note saying he had been examined on 29 December and was unfit for work from then until 15 February 2021. He also said he had been shielding. He expected a temporary fix to his electricity supply by 5 March. He asked for an extension of time to 8 March.

11.3 On 18 March he wrote, after seeing Judge Baty's order, saying the electricity would not be repaired until 23 April but he still hoped to comply in time for the hearing on 21 May.

11.4 On 25 March 2021 he delivered a GP fit note saying he was unfit for work by reason of colitis from 15 February to 28 March 2021.

11.5 On 31 March he sent a 3 page handwritten letter asking for variation in the directions timetable.

11.6 On 11 May 2021 the claimant wrote again to the tribunal saying he was again unwell and was enclosing a further fit note. He would also get his doctor to write a medical report. He said he had also been affected by the passing of his aunt and uncle from Covid (no date or place is given), and complained that the respondent's actions caused him anxiety and depression. There was no mention of his electricity supply. The fit note is dated 21 April 2021 and says he is unfit for work until 23 May 2021 by reason of a colitis flare.

12. The tribunal has been careful to post orders to the claimant as it is not known if can yet use his phone or laptop to access email. He has not contacted the tribunal or the respondent seeking a postponement of today's hearing.

13. Meanwhile the respondent had written on 1 February, 18 and 19 February, 4 March, 26 March, and 8 and 30 April, first seeking unless orders to ensure progress on the timetable, then resisting the claimant's requests for variation as it would leave little time to prepare and because on the evidence of the letters he could write out a statement by hand, later seeking clarification on the issues for 16 March and then today's hearing, given that disability could not be decided until the claimant provided his records and witness statement. The tribunal only replied about the preliminary hearing. It is regretted that being out of the building from mid-December to the end of April without any cloud-based IT system has made orderly administration very difficult and in practice correspondence on cases was only being addressed when there was an impending hearing.

## **Conduct of the Hearing**

14. The hearing started at 10 am. Counsel and solicitor attended for the respondent. There was no claimant, and I telephoned him just after 10 am and left a message on his voicemail saying that the hearing was starting and asking him to join the call if he received it, and that if there had been a delay we could restart and still hear him. I was informed that a hard copy of the bundle, skeleton and authorities had been delivered to the claimant's home at 4.23 p.m. the day before. Having already read the 203 page hearing bundle and counsel's skeleton argument, I invited counsel to address me on possible alternatives to strike out, such as a deposit order, or an unless order, and whether a solution might be to hear the disability issue with all other issues at the final hearing starting 3 August. I then reserved judgment.
15. Later in the morning I was informed by the tribunal administrative staff that around 10.40 am the claimant attended the employment tribunal premises at Victory House in person. He was met by chance at building reception security desk by the tribunal delivery manager. The claimant explained he had a hearing which he could not access as he had no electricity due to flooding, and that he had asked for a postponement but heard no more. He handed in a typed document, which was scanned to me, then left. The first paragraph refers to the documents bundle delivered to him the previous afternoon, and to Employment Judge Burns having made a further order on 17 May, and says if this superseded Judge Baty's order of 8 March, the claimant requests a postponement of 21 May hearing until he has seen a copy of that order. He refers to the overriding objective, and the description of his symptoms in the 11 May letter, saying in his view they are caused by a campaign of harassment in 2016. He objects that the claimant must be taken as the respondent finds him, and therefore objects to any application under rule 37 (1) (d). He asserts he "has attended tribunal in person today to confirm that he is and has been actively pursuing the claim, as he made clear in a letter dated 11 May 2021". He says he has been doing everything he can to pursue the claim. With regard to the application to strike out matters relating to 2016 tribunal proceedings, he says he is not pursuing these claims, and that they are only discussed in the statement of claim, schedule of loss and further and better particulars of claim "in order to explain the history and background to the current claim". They are "important historical and factual background and context to the current claims".
16. The document concludes with an appendix of medical materials:
- 16.1 a letter from Sutton Primary Care Recovery team of 5 May 2021, responding to a letter of 24 April asking for letter about his current mental health. It recites that he was initially referred in July 2017 and discharged back to his GP in August 2019. He was referred again 10 September 2020 "following a relapse of his mental health condition", after reporting feeling low in mood since February 2020 after leaving his job. The diagnosis of the mental health condition is not given. It reports his physical health conditions (colitis) impact on his mental health and vice versa, leaving him low in mood and low energy spending a lot of time in bed. As to treatment, "he is currently engaged in low-key recovery goals" to help with rehabilitation It is signed on behalf of a care coordinator who appears to have no clinical qualification.
- 16.2 a letter "to whom it may concern" from his general practitioner, Dr Patel, dated 13 May 2021, stating he has ulcerative colitis, sleep apnoea, non-rem parasomnia, periodic limb movements, restless leg syndrome, depression,

migraine and rheumatological back and joint pain. He reports an acute deterioration of ulcerative colitis, non-rem parasomnia and depression in January and February 2020 which required access to hospital accident and emergency, and an inpatient admission with stomach cramps, constant diarrhoea bleeding and loss of mobility.

- 16.3 A letter from St Helier Hospital 5 May 2021, addressed to Dr Free at the claimant's GP surgery gives a diagnosis of IBD associated arthralgia, ulcerative colitis - currently very active and treated with steroids, sleep apnoea, and a past history of pericarditis, iritis and episcleritis. The claimant had been advised to contact the gastroenterology helpline when he had a flare up, rather than getting steroids from his GP, as the ongoing high dose was not safe. He is due to be reviewed on 25 May 2021 for alternative medication. There are no inflammatory signs in the joints. He was for ongoing review in six months. Meanwhile the GP was asked to treat his high blood pressure.
17. I do not know if the claimant had received the voicemail message when he attended Victory House. Perhaps not. Had he stayed, the staff would have contacted me and he could have been found a work station there at which to join the CVP hearing. At the time, the hearing had just finished, but it could have been reconvened.
18. I have considered the claimant's written submission as well the respondent's arguments.
- Should the claim for 2016 harassment be struck out as res judicata?**
19. This part of the claim is set out in paragraphs 66 to 72 of the numbered grounds of claimant document, headed race discrimination. There are two more paragraphs, 73-4, making rhetorical observations about the respondent's workplace which are unparticularised. This claim concerns events in the real property department in 2015 to 2016.
20. It is nowhere stated that this is background to other claims, and though it states he had brought a tribunal claim, it says he withdrew on payment being made, not that there was a hearing and some claims were struck out. Although the claimant now says in his written submission that he was not making a claim for these events, there are no other events listed as a race claim; this appears to be a claim, and he does not say that he is withdrawing it. I should therefore consider whether the apparent claim should be struck out.
21. The earlier tribunal claim was presented on 28 May 2016, for holiday pay and bonus, and alleged race and disability discrimination. The stated disability was depression, back pain and colitis. The respondent denied liability. As an open preliminary hearing on 2 September 2016, attended by the claimant, Employment Judge Lewzey noted the claimant had withdrawn claims unfair dismissal, bonus and holiday pay, and she struck out the remaining claims of race discrimination, harassment and failure to make adjustments for disability on ground they had no reasonable prospect of success. The claimant applied for reconsideration of this decision. On 24 October 2016 employment Judge Lewzey refused the application under rule 72, because he

had no reasonable prospect of success is showing that the decision was in the interests of justice.

22. It is a long-standing legal doctrine that litigants may not pursue causes of action which have been dealt with in previous proceedings involving the same parties in respect of all points that had to be decided, or which were decided - **Virgin Atlantic Airways Limited v Zodiac Seat UK Ltd (2014) AC 160**, and **Arnold the National Westminster Bank plc (no 1) 1991 2AC 93**.

23. A reading of the earlier grounds of claim, the current grounds of claim, and the September 2016 judgement shows that these matters have already been litigated and decided. Nothing new has occurred which suggests that this is a different issue.

24. The race discrimination claim in paragraphs 66 to 74 is struck out by issue estoppel.

### **Application to strike out the remaining claims**

25. The remaining claims are these:

25.1 a claim of **unauthorised deductions** relating to underpayment a statutory sick pay – paragraphs 9 to 15. In the response the employer concedes that there may have been some errors of counting the waiting days for statutory sick pay where these fell over a weekend and says he will be paid the missing money in the next payroll. There is no mention from the claimant that this did not happen, although he has not withdrawn the claim. The October 2020 schedule of loss lists missing SSP payments totalling £5,626.15 for the period September 2019 to February 2020, including a 6% pension contribution, and the revised schedule submitted at the end of January, after service of the response, did not delete these sums. So it is unclear whether a payment was made as respondent said.

25.2 a claim of failing to make **reasonable adjustments for disability**, contrary to section 21 of the Equality Act 2010, the narrative of events covering the period September 2019 to January 2020 – paragraphs 16 to 33. The events all relate to his relocation in the pro bono unit and mainly deal with access to toilet facilities, as a result of which he took to working in a client meeting room on a higher floor and had to carry his laptop there. A further PCP is a requirement to work long hours, which the respondent disputes in case of trainees, and also in the claimant's particular case, as he was working, as a concession to disability, 10:30 a.m. to 4:30 p.m. on weekdays and was not required to work at all on Wednesdays. There are then further assertions of PCPs putting him at substantial disadvantage which relate to the methods by which the respondents say they identified that he did not attend work in the week beginning 11 January 2020 – the use of swipe cards, access to the respondent's IT system, and billable hours. It is not easy to understand how these particular requirements put someone with the claimant's disability at a disadvantage.

25.3 a claim of **disability harassment** related to 2 meetings in October and November 2019 to discuss applications the claimant was making for

associate roles to start in March 2020 when his training contract ceased - paragraphs 48 to 51. The content of these conversations is in dispute.

25.4 Claims of **disability harassment** in paragraphs 38 to 47, namely, informing him of the preliminary findings on whether he was at work in the week beginning 6 January 2020, and in paragraphs 52 to 65, relating to the 31 January 2020 investigation meeting, being notified on 11 February of the disciplinary meeting on 13 February, and being told on 13 February that no decision would be made until he made representations, but that meanwhile a report to be made to the SRA (Solicitors Regulation Authority). The tribunal understands this to be a report which would be required of a training principal at the conclusion of a training contract as to the trainee's suitability for admission to the roll. The respondent said it was concerned about his honesty.

25.5 The matters alleged as harassment (31.3, 31.4) are also alleged as section 27 **victimisation**. The protected acts are identified at the end of paragraph 53 as being (1) a grievance he brought against the real estate group (where he worked in 2016) and (2) the 2016 employment tribunal claim.

26. It should be added that in ET1 the claimant lists claims under sections 13 and 15 of the Equality Act, but in the grounds of claim document, which is structured and contains subheadings, these do not feature.

## Relevant Law

27. Rule 37 of the Employment Tribunal Rules of Procedure 2013 states:

—(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—

- (a) that it is scandalous or vexatious or has no reasonable prospect of success;
- (b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;
- (c) for non-compliance with any of these Rules or with an order of the Tribunal;
- (d) that it has not been actively pursued;
- (e) that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim or response (or the part to be struck out).

(2) A claim or response may not be struck out unless the party in question has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.

28. The respondent applies to strike out on the basis of (1)(c), non-compliance, and (d) not actively pursued. They point to the repeated failure to disclose the general practice records or provide a witness statement about disability.

29. The tribunal accepts that the claimant has been ill in recent weeks, though there is no fit note to cover the period 28 March to 21 April. It is less easy to understand the lack of access to electricity to use his laptop. They has been no news of progress on the repair of his fuse box since 18 March, when he expected to be done by 23 April,



but he repeated the fuse box damage as a reason for not joining the hearing when speaking to the delivery manager this morning. It is hard to understand how someone with such a disability has managed, without electricity, to heat water to wash, or to cook food or light his home all these months. Even if he is managing on Calor gas and candles, the recent opening up of non-essential shops will have enabled him to use his laptop at a café, as so many people do, or he might have been able to use it at a friend or family member's place. He has somehow managed to write a submission at short notice for this hearing.

30. With regard to general practice records, it is very hard to understand why the claimant has not been able to ask his general practitioner to disclose the file. Doctors are obliged to do so under the Data Protection Act, subject to review by a Caldicot Guardian, usually in mental health cases, if disclosure might be harmful to the patient. Now that almost all GP records are held on computer, disclosure is usually given very promptly by printing or emailing or both. All the claimant needs to do is ask the practice manager, he may also be asked to sign a consent form. On the evidence of the three fit notes he has submitted he has at all material times had the means and opportunity to ask the surgery staff to disclose the records. If he has not been able to charge his phone to make a telephone request, then it must be assumed that the consultations on 15 February 2021 and 21 April 2021 were in person. The documents supplied today show that he has asked his doctor to prepare a letter in May 2021.
31. This short letter is not helpful to the tribunal to decide the disability issue. The disability claims start from September 2019. The tribunal has to be able to assess whether the claimant was a disabled person (substantial impairment, long-term) at that date. The very brief letter does not assist, as it only really shows substantial impairment for February 2020. Disclosure of medical records, which will show the history, attendances with contemporary records of symptoms, and the prescribing record, is essential to deciding the disability issue.
32. Judge Burns's order with regard to the witness statement was precise as to the contents. The claimant does describe some symptoms in his grounds of claim, and in his letter 11 May 2021, but he does not deal with the points she asked about. In particular he does not specify what level of symptoms he experienced in which parts of the body at what times from September 2019 onwards. Ulcerative colitis is a fluctuating condition. Clearly he has had a recent flare, but that does not help as to the level of symptoms in earlier periods. He also needs to describe in his witness statement how the other listed conditions impaired his ability to carry out normal day-to-day activities, and at what times. It is important that he prepares a witness statement which deals with her order in a structured way. He was able to prepare the handwritten three page document on 11 May, and the three page typewritten submission of today. There seems to be no good reason why he could not prepare the impact statement, by hand or by keyboard.
33. The reasons for non-compliance so far are not convincing. Nevertheless, striking out is a draconian act. The overriding objective set out in rule 2 of the procedure rules is that case management decisions should be made fairly and justly having regard to avoiding delay and unnecessary formality, saving expense, flexibility, and putting the parties on an equal footing, as well as dealing with cases in ways that are proportionate to the complexity and importance of the issues. The principles guiding tribunals when contemplating striking out claims set out in **James v Blockbuster**

**Entertainment Ltd (2006) EWCA Civ 684**, to the effect where there had been lack of compliance with directions: “the first object of any system of justice is to get triable cases tried”, however difficult the litigant’s behaviour has been. Striking out must be a proportionate means of dealing with the case. In that case the strikeout occurred on the first day of trial, when it might be possible to hear it. **Weir Valves and Controls (UK) Ltd v Armitage** held that when a litigant disobeyed an order the tribunal should consider whether striking out or some lesser remedy was an appropriate response. That might involve considering the magnitude of the default, who or what was responsible for it, what disruption had been caused, and whether a fair hearing was still possible. In **Evans the Commissioner of police (1993) ICR 151**, it was emphasised that when striking out for want of prosecution, where the default was not intentional, if there had been inexcusable delay in the delay would give rise to a substantial risk that they could not be a fair trial of the issues.

34. In this case the delay has been substantial, and if the claimant has been ill in his recent flare up, he appears to have been well in April, and while inability to charge his phone and laptop is puzzling, he was able to write letters by hand. So it must be doubted that he has any real excuses for such a prolonged default. He must have been able to obtain his general practice file. It is the second time the tribunal has tried to hear the disability issue. The final hearing is at the beginning of August and if the case is not struck out now, the respondent says there is no longer time to disclose all relevant records and prepare witness statements in time for 3 August.
35. If the August hearing has to be postponed, it is unlikely to come back into the list before October. By that date it will be two years since the disputed conversations in the harassment and victimisation claims arising from the meetings of October and November 2019. There is risk of prejudice to the respondent by further delay, though no doubt some of this will have been written down at the time by the managers concerned and the respondents will have interviewed these witnesses in order to further response. It is however still possible to have a fair hearing.
36. Having regard to this, the just solution is to make an unless order in respect of the claims that rely on the claimant being a disabled person, that is, the claims brought under section 13, 15, 20 and 21, and section 26 of the Equality Act 2010. I allow the claimant until 14 June (three weeks) to send the respondent his general practice file and the statement about disability which covers the points made by Judge Burns in her December order. This may be tight, but the claimant has known for some time what he has to do, and he should be able to comply.
37. Assuming the claimant complies and the claims are not struck out, there will be a further open preliminary hearing to decide the disability issue on 7 July, subject to any admissions the respondent may decide to make on reviewing the material.
38. If the disability claims are struck out, that will still leave the unauthorised deductions claim. At present it is not clear what the dispute is about, or even if there still is one, because the claimant has not addressed what the respondent says in the response about this. I am ordering that the claimant provides a more detailed breakdown of the claim, which must be by reference to the dates he was off work sick, the amounts he should have been paid each month, having regard to his sickness absence, and the amounts actually paid, either then, or later, as promised in the response. That claim can then be tried on 7 July.

39. Striking out the disability claims will also still leave the victimisation claim. At face value it is unlikely that an employer who had been able to extend the training contract and adjust working hours to a four day week with a short working day for disability should then at the end of 2019 discourage the claimant from continuing with his applications for posts just because he had brought a claim and a grievance in 2016, over three years earlier. The reasons for the conversations given in the response are plausible. Similarly it seems unlikely that the investigation as to his whereabouts in January 2020 was prompted by his 2016 grievance and claim when, if the respondent is believed, they had cause. In an equality claim those reasons should be tested in evidence before striking out, but I can make a deposit order under rule 39 of my own initiative if it seems that the claim has little reasonable prospect of success. Counsel for the respondent declined to address the point, as she was without instructions on the claimant's prospects if success. Given that neither side has had notice of the point, I propose to add consideration of a deposit order on the victimisation to the matters to be considered on 7 July.
40. The deposit order will require evidence from the claimant of his ability to pay, both current income, and current savings, in deposit accounts and other assets. He should provide details of mortgage (if any) or rent, and his other outgoings. He must send documents to show this to the respondent and tribunal, and a list of his income and outgoings, by 1 July.
41. It is difficult to set a final hearing date now without knowing the scope of the claims and issues for that hearing. The 3 August date is vacated. A final hearing will be listed on 7 July and the parties should have enquired as to their availability from September to the end of the year.

---

Employment Judge Goodman

Date: 21<sup>st</sup> May 2021

JUDGMENT and SUMMARY SENT to the PARTIES ON

.22/05/2021.

FOR THE TRIBUNAL OFFICE

**Public access to employment tribunal decisions**

1. Except for records of private case management hearings, 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.

**Consequences of Non-Compliance**

2. 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.

3. 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.