



EMPLOYMENT TRIBUNALS

Claimant *Mr D Burns*

Respondent *Precise Media Monitoring Ltd*

HELD AT: London Central

ON: 23 March 2021

BEFORE: Employment Judge D A Pearl (sitting alone)

Representation:

For Claimants: Does not appear and is not represented

For Respondent: Mr C Milsom (Counsel)

Open preliminary hearing held by CVP video platform

JUDGMENT

1. Pursuant to rules 37(1)(a) and (d) and 47 of the Procedure Rules 2013 all claims are dismissed on the following grounds:
 - (a) as there is no jurisdiction to entertain the claim of unfair dismissal;
 - (b) as the victimisation and monetary claims are not being actively pursued; and the Claimant has failed to attend this hearing.

REASONS

1. This is a claim for unfair dismissal and also a monetary claim for notice pay and unpaid wages, including holiday pay. The word 'victimisation' is included in the claim form but there is no reference to any protected characteristic and no discrimination box is ticked, nor is there any reference in the ET1 to any discernible victimisation claim under the Equality Act.

2. On 2 February 2021 at a preliminary hearing this further hearing was directed. The Claimant attended (current Counsel did not). The orders imply that a victimisation claim was being made. The Claimant was ordered to give particulars of protected acts and also detriments. For the money claims, he was ordered to provide particulars. In his one response on 12 March, no proper particulars were given.

3 The unfair dismissal is based on a dismissal said, in the ET1, to have occurred on 31 July 2020. The Respondent maintains it dismissed the Claimant for redundancy on 4 September 2020 and that there is no possibility of any dismissal on 31 July. As the claim was presented on 1 September, 3 days before the apparent effective date of termination, this is a premature claim and there is no jurisdiction to entertain it. It was not presented during a period of notice. (Had it been, the claim would be valid.) Therefore, the Respondent says it must be struck out; and this issue was explicitly specified on 2 February as one to be decided today.

4 The other issue specified was to consider striking out those victimisation claims that were out of time.

5 The Claimant did not attend today and did not respond to an email sent by the tribunal. There is no telephone number on the claim form. I adjourned until 11.00am to ensure there was response. The Respondent told me that the Claimant's freedom was not affected by a Crown Court appearance he made yesterday when he entered, I am told, a guilty plea. Before this he must have been at large, as he responded to their email on 12 March. He said he would be attending today.

6 The unfair dismissal claim cannot be saved, in light of sections 111(2) and (3), ERA 1996. There is no jurisdiction to entertain it and the letter of dismissal is at pages 67-68. The wages and notice claims have never been particularised. The Claimant has not attended and by his non-compliance with the previous order, he has demonstrated that he is not actively pursuing them. The victimisation claim, were it ever made (which is debatable) has not been explained or particularised and the Claimant has not attended to make any representations. That is also not being actively pursued. Therefore, all claims are now struck out. For completeness, rule 47 enables me to dismiss the claim in view of the Claimant's non-attendance and this would also be apt as an alternative ground.

7 The Respondent applies for costs based on the Claimant's unreasonable conduct of the proceedings, limited to £3,500 plus VAT, the amount of Counsel's fee (for a preliminary hearing listed for 2 days.) I have made further case management orders about costs and these will be sent separately.

Employment Judge Pearl

Dated: 23rd March 2021

Reasons sent to the parties on:

23/03/21

For the Tribunal Office

