



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr. Mihailescu  
**Respondent:** Care Signature Christian Homecare Services Ltd

## OPEN PRELIMINARY HEARING

**Heard at:** Bury St Edmunds Employment Tribunal (in private via CVP)

**On:** 11 February 2022

**Before:** Employment Judge Mason

### Appearances

For the claimant: In person

Assisted by Romanian interpreter: Miss Dobrita

For the respondent: Ms. Young, paralegal (Avensure)

## JUDGMENT

**The Respondent's application to strike out the claim fails.**

### Reasons

1. On 22 December 2021, the respondent made an application to strike out the claim pursuant to Rules 37(1)(a) and/or (b) of the Tribunal Rules 2013 on the basis that they say the claims are vexatious and have no reasonable prospect of success and/or the claimant has acted vexatiously and unreasonably in the conduct of these proceedings.
2. With regard to the claimant's conduct, the claimant has refused to recognise Avensure as the respondent's representative and has persisted in sending communications directly to the respondent. He has blocked Ms Young's email address. This has caused considerable frustration and inconvenience to the respondent and hampered preparation of the case.
3. The claimant is not represented and English is not his first language. He told me he was confused and thought he should only communicate with the name of the respondent's representative as stated in the response (ET3). He was concerned that Avensure are not a "legal firm" and was also confused by the fact they did not always put the case number on communications.

4. Ms Young confirmed to me that Avensure are indeed appointed to represent the respondent. The claimant told me he now accepts this. He assured me that going forward he would unblock Ms Young's email address, accept and respond to communications from Avensure and cease to send communications directly to the respondent. Ms Young agreed to put the tribunal case number on all future communications. I explained to the claimant that he may receive communications from people other than Ms Young at Avensure and he must still respond.
5. Ms Young said the claimant's conduct had fallen short in a number of other ways.
  - 5.1 He had submitted a second witness statement after he had received the respondent's witness statement. I explained to the claimant that this was not permitted and that only his first statement would be allowed. He accepted this.
  - 5.2 Ms Young said the claimant has refused to engage with regard to preparation of the bundle. This is connected to his refusal to engage with Avensure. The claimant agreed to directions regarding preparation of the bundle going forward.
6. In light of the claimant's reassurances that he would recognise Avensure as the respondent's representative, cease to communicate directly with the respondent and would cooperate with regard to the bundle, I refused the application to strike out the claims based on the claimant's conduct. I have taken into account that he is not legally represented and that English is not his first language. However I made it very clear to him that if he did not cooperate with Avensure in the future to ensure this case is properly prepared, I fully expected the respondent to make a further application to strike out and I fully expected that application to succeed.
7. With regard to the merits of the claims, Ms Young says the claimant has brought claims which the Tribunal has no jurisdiction to determine; she says his claims are to be paid for what he thinks he should have been paid rather than what was contractually agreed. He also says he should be paid for 40 hours per week regardless when he entered into a zero hours contract. I refused to strike out on this basis. What was or was not contractually agreed is a question of fact to be determined by the tribunal at the final hearing in the light of all the evidence including any documents relevant to the claimant's terms and conditions.

EJ Mason  
14 February 2022

Judgment sent to the parties on:

...19 February 2022....  
For the Tribunal Office:

.....GDJ.....