



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss S Repkova

**Respondent:** Wex & Co Estate Agents

## JUDGMENT ON A PRELIMINARY POINT

**Heard at:** Watford

**On:** 25 November 2019

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

### Appearances

For the claimant: In person

For the respondent: Mr Michael Wexler

## JUDGMENT

The Respondent's application to strike out the claimant's claim is dismissed

## REASONS

1. This matter was listed for a final hearing. I converted the final hearing into a preliminary hearing under rule 48 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 with the consent of both parties.
2. This matter was not in position to be determined. In accordance with the overriding objective to deal fairly and justly with the case, I postponed and re-listed the Final Hearing for Tuesday 7 April 2019 and issued proportionate case management orders.
3. The respondent said it wished to apply to strike out the claimant's claim. I decided to hear that application today.
4. Mr Wexler's grounds for seeking a strike out were as follows:
  - 4.1. The claimant has failed to comply with an order of the tribunal to send to the tribunal and to the respondent the documents on which she intended to rely not less than 7 days before the hearing.
  - 4.2. The respondent says that order at paragraph 2 on page 2 of the tribunal's correspondence to the parties of 11 March 2019.

- 4.3. The claimant provided her documents to the respondent on Friday 22 November 2019. The hearing date was 25 November 2019.
- 4.4. The respondent says he is disadvantaged because he has not had time to consider the documents and has had no opportunity to seek advice from his legal advisers.
5. I rejected Mr Wexler's application on the following grounds:
  - 5.1. The tribunal's letter of 11 March 2019 does not contain any order requiring either party to provide the documents, on which they intend to rely, at the hearing in advance of the hearing.
  - 5.2. The paragraph relied upon by the respondent does not refer to documents, but to written representations. Written representations are not the same thing as documents. I explained to Mr Wexler that a party may wish to state its case in writing (written representations) either as an alternative, or in addition, to making oral representations at the hearing.
  - 5.3. Documents are dealt with in the following paragraph of the tribunal's letter of 11 March 2019. The direction is that it is the responsibility of each party to bring to the hearing the documents they intend to rely upon with sufficient copies. I explained to the respondent that this is the usual procedure adopted by the tribunal in cases of this nature in the interests of proportionality.
  - 5.4. The claimant is therefore not in breach of any order of the tribunal.
  - 5.5. There is accordingly no merit in the application to strike out the claimant's claim.

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Acting Regional Employment Judge Foxwell  
signed in Judge Loy's absence pursuant to  
Rule 63

Date: 24 February 2020

Sent to the parties on: 26 February 2020

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For the Tribunal Office