



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr N Stubbs

**Respondents:** Consensio Holidays Ltd

## JUDGMENT OF THE TRIBUNAL STRIKING OUT THE CLAIMS

The claimant's claims are struck out.

### REASONS

1. The reasons why the claims are struck out are:
  - a. it has no reasonable prospect of success because it was filed considerably out of time and
  - b. the manner in which the proceedings have been conducted by or on behalf of the claimant has been scandalous, unreasonable or vexatious
2. The claimant was sent a strike out warning under Rule 37 on 4 November. It said:

"The reasons for this warning are firstly that the claim appears to have been filed considerably out of time, the employment ended in February 2014 and the claim was not filed until February 2021. Secondly, less than a quarter of an hour after the tribunal wrote to the claimant on 1 November warning him that if he continued to use abusive language in emails his claim may be struck out, Mr Stubbs wrote another abusive email. This was followed by a visit to the tribunal's reception on 2 November during which he shouted and was abusive towards a member of the tribunal staff. The police were called by security but the claimant had left before they arrived. Mr Stubbs said in an email after the incident: "my behaviour was completely normal I'm entitled to be disgruntled due to the manner in which I have been treated by the Tribunal." This was not the experience of those involved in the incident.

If you wish to object to this proposal, you should give your reasons in writing or request a hearing at which you can make them, by 18 November 2021".

4. Within 10 minutes the claimant replied: "My objections to this email is you're a bunch of ignorant f\*\*\*\*\* c\*\*\*s....."

After two further emails the tribunal wrote to the claimant on 10 November saying.

“Regional Employment Judge Wade has instructed me to write as follows:

The Strike Out warning, which explained the grounds on which the claim might be struck out, gave you until 18 November to respond. You have emailed the Tribunal several times, but have not responded directly to the warning. Therefore the judge will wait until 19<sup>th</sup> to make a decision so that you can reply to the warning if you wish to, explaining why your claim should not be struck out, or requesting a hearing.”

5. The claimant has written approximately nine times to the tribunal since then. Most of the emails are abusive and they do not address any of the points in the strike out warning. They also disclose a high level of distress and ill health. For example on 18 November at 11.33 he said “My mind will never be able to be fixed it is broken for the rest of f\*\*\*\*\* life because you sick f\*\*\*\*\* bastards.” At 11.58 he said:

“Your whole industry is based on people been unfairly dismissed and yet you do not get dismissed yourself and you do not abide by the law when you do not do your job my mind is f\*\*\*\*\*g broken because people like you do not do your job because people like you do not get f\*\*\*\*\*g dismissed because I have no protection from f\*\*\*\*\*g dismissal because he’s not in your f\*\*\*\*\*g favour it is not in your f\*\*\*\*\*g profit”.

6. It is obvious that the claimant is very distressed which is very regrettable and I have considered whether it would assist to list a preliminary hearing to try to explain the process to the claimant and see if he was prepared to engage. However, I have decided to strike the claims out for the following reasons:

6.1 They were filed considerably out of time and the claimant has not attempted to explain that he may have an argument as to why he should be allowed to proceed or requested a hearing.

6.2 I have to bear in mind that it is my job to be fair to both sides and prolonging this litigation, given how considerably out of time it is, would not be fair on the respondent

6.3 It is not fair on the tribunal's staff to tolerate this level of abusive email traffic. The emails are gratuitously abusive in that they are not attempting to engage with the legitimate questions asked of the claimant by the tribunal in the strike out warning.

6.4 I have some concern for the safety of the tribunal staff as the claimant's behaviour in reception on 2<sup>nd</sup> November was alarming.

6.5 The claimant has not expressed any regret about his behaviour on 2nd November, indeed he denies that he behaved in a threatening manner.

6.6 The claimant is not prepared to engage in the tribunal process.

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Regional Employment Judge Wade

Date\_\_19 November 2021\_\_\_\_\_

**Case No: 2203727/2021**

JUDGMENT SENT TO THE PARTIES ON

22 November 2021

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FOR THE TRIBUNAL OFFICE