



EMPLOYMENT TRIBUNALS

Claimant: Mr Ben Lingard

Respondents: Priory Group Healthcare Ltd
Mr Paul O'Connor
Ms Linette Howes

JUDGMENT – CLAIMS STRUCK OUT UNDER RULE 38 (1)

The claims are struck out pursuant to Rule 38 (1) due to non-compliance with the Tribunal's Unless Orders made on 10 August 2022 sent to the parties on 11 August 2022, which required compliance on or before 7 September 2022.

Reasons

1. The Tribunal made Unless Orders made on 10 August 2022, sent to the parties on 11 August 2022 together with the Case Management summary.
2. The Unless Orders required:

Unless Order under Rule 38

On or before 7 September 2022 the claimant must:

- (a) Set out in writing which of his applications to amend his claims, as referred to in the respondent's Counsel's email of 9 August 2022, sent at 16:44 he continues to seek*
- (b) Subject to (a) above, the claimant must set out why he says the amendment application (s) should be permitted by reference to the nature of the amendment, the timing of the amendment and the applicability of time limits. The Presidential Guidance on amendments/the 'Selkent Bus' principles were explained to the claimant at today's Hearing.*

- (c) *The steps outlined in (a) and (b) above must be set out in a document not exceeding 6 pages of A4 in font not less than 12.*
- (d) *Subject to (a) above, the claimant must set out the amendments sought by showing the changes tracked on a Word version of the particulars of claim in respect his two claims (as pleaded in his ET1s).*
- (e) *If the claimant does not carry out all of the steps outlined in (a) to (d) above, as directed and within the timescale, his claims will stand dismissed without further Order.*
3. The Case Management Summary records that the claimant was provided with a generous timescale for compliance of 28 days and further that clarification was long overdue (paragraph 58).
4. The Case Management Summary records the **Selkent Bus** Principles/Presidential Guidance on Case Management was explained to the claimant at the Hearing as the Unless Orders related to his amendment applications (Order 1.1 (b)). A link was also included to the Presidential Guidance on Case Management.
5. The Case Management Summary records the refusal by the Tribunal, with reasons, for Employment Judge Khalil to recuse himself (paragraphs 33 to 43).
6. The Case Management Summary records the Tribunal's refusal to combine the claimant's claims with claims issued in Bristol Employment Tribunal (paragraphs 49-56).
7. The Case Management summary records the Tribunal's comments about the claimant's conduct and allegations at the Hearing.
8. The claimant made an application for an extension of time to comply with the Unless Orders on medical grounds on 16 August 2022. This was refused on 30 August 2022 as follows:

The Tribunal refers to the claimant's application for an extension of time to comply with the Unless Orders made by the Tribunal on 10 August 2022.

The claimant's supporting medical evidence refers to the claimant's fitness for work not his ability to undertake case preparation.

The Tribunal's Case Management summary sent to the parties on 11 August 2022 records that the time for compliance was generous.

The Tribunal is not prepared to extend time further. The Tribunal notes the comments of Regional Employment Judge Freer in his letter of 17 August regarding the extensive volume of email traffic sent during this period which is not consistent with the claimant's assertions about needing more time to comply. In addition, notwithstanding the warning to

cease engaging with the Tribunal in this way, the claimant has persisted, since, in emailing the Tribunal disproportionately and unnecessarily.

The application is refused.

9. The Tribunal notes that in Regional Employment Judge Freer's letter of 17 August, he referred, *illustratively*, to the claimant having sent 62 emails between 6.00am and Midday on 16 August 2022 alone.
10. The Tribunal further notes the claimant's statement in his email of 5 September 2022 as follows:

"The Respondent is already aware of the amendments I wish to make/there is no confusion"

11. The claims stand dismissed.

Public access to Employment Tribunal decisions

All judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Employment Judge Khalil

20 September 2022