



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr A Ozoemena

v

**1. Metropolitan Housing Trust Limited.
2. Thames Valley Housing Association Limited**

Heard at: Watford

On: 5 July 2022

Before: Employment Judge Forde

Appearances

For the Claimant: Did not attend and not represented

For the Respondent: Ms Ifeka, Counsel

JUDGMENT

1. The claim is struck out.

REASONS

1. The respondent applied for strike out of the claim or alternatively, a deposit order against the respondent in respect of his remaining claims of notice pay and holiday pay. It is the respondent's case that the claimant's claims in this regard were misconceived on the basis that payments in respect of these heads of claims had already been made to the claimant and that further, the claimant had not engaged with the tribunal's directions and had not responded at all to various communications sent to him by the respondent's solicitor.

Procedural background.

2. On 24 August 2021 the tribunal notified the parties that it had rejected jurisdiction in respect of the complaints of unfair dismissal, age discrimination and sex discrimination. This meant that the claims that remained were for notice pay and holiday pay.
3. On 26 February 2022 the tribunal sent out directions the parties that covered the exchange of documents relevant to the claim, the preparation

and exchange of witness statements, the preparation and provision of the schedule of loss by the claimant, that the claimant should provide further and better particulars of his claims for notice pay and holiday pay and that the claimant should notify the respondent and the tribunal as to his correct postal address by no later than by 14 March 2022.

4. By 28 June 2022, the respondent was to have provided the bundle and witness statements required for the hearing. It is the respondent's position that it was unable to comply with this order on the basis of the claimant's complete non-compliance with the case management orders set out above notwithstanding its attempts to engage the claimant through correspondence.
5. In light of the silence from the claimant, the respondent submitted an application to strike out the claimant's claim and did so on the basis of various breaches of rule 37 of the 2013 Rules which provides, inter alia, that at any stage of the proceedings, either of its own initiative or on application, the tribunal may strike out all or part of a claim or a response for non-compliance with any of its rules or with an order of the tribunal, or that it has not been actively pursued but subject to a procedural safeguard in that on such an application the claimant should have the opportunity of making representations either in writing or at a hearing in response to an application.
6. Having considered the evidence before me, I find on the balance of probabilities that it would be appropriate to strike out the claimant's claim on the basis of procedural non-compliance. In particular the claimant's failure to adhere to the principles that underpin Rule 2 of the tribunal's Rules, namely the overriding objective.
7. This is a case in which there has been wholesale non-compliance with the tribunal's orders by the claimant. He has failed to particularise his claim or to provide his up to date contact postal address. The tribunal does not have a telephone number for the claimant and has not been able to contact him in advance of the hearing.
8. I find that in in light of the claimant's non-compliance that he is in default of the tribunal's rules and the extent of the default is both sizeable and significant and that if I were to allow the claim to continue it would place the respondent under an unfairness or prejudice which in turn would possibly render a fair hearing a difficult thing to achieve.
9. In reaching my decision I considered whether striking out or some lesser remedy would be appropriate in the circumstances. However, the claimant has shown himself to be in complete disregard for the tribunal's orders and has not engaged with respondent in any meaningful way leaving me to the conclusion that the claimant does not want to participate in the claim. Striking out is the appropriate remedy in the case.

10. In light of my observations and findings above, I find that it is appropriate to strike the case out under ground 37(1(d), namely that the claim has not been actively pursued.
11. In summary:
 - In terms of non-compliance, I find that the magnitude of the claimant's non-compliance is total given his complete failure to comply with any of the tribunal's orders and that the responsibility for his non-compliance is his own. Further, I considered a lesser sanction but given the totality of the claimant's non-compliance I find that strike out is the fair and appropriate sanction to apply.
 - In respect of not actively pursuing the claim, I find that it is manifestly obvious that the claimant is not pursuing his claim.
12. In light of my conclusions, I order that the claim is struck out.

Employment Judge Forde

Date: 1 August 2022.....

Sent to the parties on: 02 August 2022

For the Tribunal Office