



EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case No: 4103825/2022

Heard by CVP on the 18 October 2022

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Employment Judge L Wiseman

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Ms P Straw

**Claimant
In Person**

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Lothian Health Board

**Respondent
Represented by:
Mr R Davies
Solicitor**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The tribunal decided it had no jurisdiction to determine the claim brought by the claimant. The claim is dismissed.

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REASONS

1. The claimant presented a claim to the Employment Tribunal in which she indicated on the claim form at Box 8.1 that she was "making another claim

which the Employment Tribunal can deal with". The claimant identified the claim as "*determining* a main term of contract".

2. The claimant set out details of her claim which (in summary) referred to a contractual right to work from home. The previous line manager had agreed, in December 2020, that the claimant could work from home. The current line manager refused this in April 2022 (but the claimant has continued to work from home).
3. The claimant seeks to challenge this refusal by asking the Tribunal to decide how the term of the contract should be interpreted, and who is "right".
4. Mr Davies submitted this was a breach of contract claim which the tribunal had no jurisdiction to deal with in circumstances where the claimant continued to be employed by the respondent.
5. I decided, on the basis of the claim form and what I was told by the claimant this morning, that a tribunal has no jurisdiction to determine the claim as it is currently pled. I say that because (a) if it is a breach of contract claim, a tribunal does not have jurisdiction to determine it in circumstances where the claimant continues to be employed with the respondent; (b) it is not a claim for provision of employment particulars and (c) a tribunal has no freestanding power to interpret contract terms.
6. I did take into account the fact the claimant is a litigant in person. However, I accepted Mr Davies' submission that this must be balanced with the fact that it is not for the tribunal to suggest to a claimant what claim they may seek to make. The claimant made reference only to a contractual right to work from home which she considered had been breached. There was no suggestion at any time about any application which had been made and refused.
7. I did suggest to the claimant that she exhaust the internal procedures available to her and/or seek advice from her trade union or another source.
8. I did note, in the claim form, the claimant referred to "*there are discrimination elements covered by the Equality Act at play. However, I am not presenting*

them at this stage as my contractual issue is the fundamental one which subsumes these other matters". The claimant repeated this at the hearing today and was very clear that this was not a discrimination claim.

Employment Judge: L Wiseman
Date of Judgment: 18 October 2022
Entered in register: 19 October 2022
and copied to parties