



EMPLOYMENT TRIBUNALS

Claimant: Mr M Zmuda

Respondent: Rayburn Trading Limited

Heard at: Manchester (via cloud video platform)

On: 5th April 2023

Before: Employment Judge Sharkett

REPRESENTATION:

Claimant: Did not attend

Respondent: Mr A Lewis - solicitor

JUDGMENT

The judgment of the Tribunal is that:

1. The Tribunal does not have jurisdiction to hear the claimant's claim of ordinary unfair dismissal
2. The claim form as particularised shows no claim with any prospect of success. The claimant's claims are struck out in accordance with Rule 37(1)(a) of the Employment Rules of Procedure.
3. The hearing of 31st August – 2nd September 2023 is vacated and will not take place

REASONS

1. This open preliminary hearing was listed by Employment Judge Grundy to determine if the claimant had any claims within the jurisdiction of the Tribunal, and in respect of claims that were within the jurisdiction of the Tribunal, whether orders should be made for a strike out or a deposit order on the basis that those claims had no or little prospect of success.

2. At the last preliminary hearing the claimant was informed that he did not have sufficient continuity of service to being a claim of ordinary unfair dismissal and therefore the Tribunal would not have jurisdiction to hear that claim. In respect of any other potential claims arising out of raising complaints or allegations of bullying, EJ Grundy expressed a view that on the basis of the information currently before the Tribunal he did not appear to be able to make out a claim. EJ Grundy asked the claimant to consider whether he intended to bring claims under the whistleblowing provisions or Equality Act and made case management orders for the claimant to provide further information of any potential claims by 17th March 2023.
3. The claimant has not attended the hearing today and did not inform the Tribunal that he did not intend to attend. Attempts were made to contact him both by phone, where a voicemail was left, and by email. The hearing was then stood down until 11am to afford the claimant a full opportunity to attend. By 11am there had been no contact from the claimant.
4. I was satisfied that the notice of this hearing had been properly served and that the claimant had also been told verbally of the date and reason for the hearing at the last PH. Mr Lewis for the respondent told me that the claimant had not complied with the order of the Tribunal to provide the information set out at paragraphs 2 and 3 of the case managements orders made by EJ Grundy on 13 February 2023 and asked the Tribunal to strike the claim. He submitted that the claimant did not have two years continuous service to bring a claim of unfair dismissal and had failed to provide any reason why his claim did not require two years continuous service. He had not attended the hearing today, which Mr Lewis considered was unreasonable, he had failed to comply with the Orders of Judge Grundy and he had failed to actively pursue his claim.
5. Having considered the documentary information before me I was satisfied that the Tribunal did not have sufficient continuity of service to being a claim of ordinary unfair dismissal and had failed to show reason why he should be able to claim unfair dismissal without the requisite service. To the extent that any other claim may have been discernible from the grounds of complaint, in the absence of further information these had no prospect of success.
6. The claims stand struck out and the final hearing listed for 31st August – 2nd September is vacated.

Employment Judge Sharkett
Date 5 April 2023

JUDGMENT AND REASONS SENT TO THE PARTIES ON
6 April 2023

FOR THE TRIBUNAL OFFICE

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