



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Adrian Stefan Stoica

v

Emplink Limited

Heard at: London Central (in person)

On: 6 December 2024

Before: Employment Judge P Klimov (sitting alone)

Appearances:

For the Claimant: no present or represented

For the Respondent: Mr T Goslar, director

JUDGMENT

The claim is struck out under Rule 37(1)(b) the Employment Tribunals Rules of Procedure 2013, because the manner in which the proceedings have been conducted by the claimant has been scandalous, unreasonable or vexatious.

Reasons

Introduction

1. Mr Stoica is a serial litigant. He has presented numerous claims against different respondents, in London Central, Watford and other Employment Tribunals. It appears the common feature of his claims is that after a very short period of time working for a respondent, he submits a money claim for arrears of pay, notice pay, holiday pay, and other payments, together with a complaint of unfair dismissal. His particulars of claim are often unclear and confusing but invariably framed in strong language, accusing respondents of robbery, forgery and other criminal activities.

2. The other unfortunate feature of Mr Stoica's approach to litigation is that he is intemperate and rude in his communications with the Tribunal's staff. Judging by the respondents' responses to his claims he uses the same style of communication with their staff too.
3. This is the second Mr Stoica's claim that came before me. His first claim (case no: 2222831/2024) equally featured the same intemperate and rude behaviour by Mr Stoica. All that is recorded in Written Reasons of 20 October 2024 https://assets.publishing.service.gov.uk/media/67336522c4d149709612205e/Mr_A_S_Stoica_v_4site_Recruitment_Ltd_-_2222831-2024_-_Written_Reasons.pdf
4. Following the sending of my Written Reasons to the parties, Mr Stoica continued to communicate with the Tribunal's staff in an inappropriate manner. In an attempt to stop this behaviour, on 14 November 2024, I issued an order, which stated, *inter alia*, "[w]hen writing to the Tribunal the claimant must observe rules of common courtesy". Unfortunately, as the events in this claim show, Mr Stoica turned a deaf ear to that order.

The Claim

5. Mr Stoica presented this claim on 26 June 2024, complaining of unfair dismissal and unauthorised deduction from wages, seeking arrears of wages, holiday pay, and notice pay. In his ET1, Mr Stoica indicated that he would not be able to take part in a video hearing. The claim was served on the respondent by the Tribunal, and a final hearing (in person) was fixed for 29 August 2024. That hearing was postponed and relisted for 6 December 2024. The notice of hearing was sent to the parties on 17 September 2024.
6. The respondent presented a response, denying all the claims. In its response the respondent stated that the claimant was a subcontractor (a laborer), who the respondent provided to work on their client's site. Mr Stoica worked on that site for 5 days, after which the client requested him not to come back due to Mr Stoica spending excessive time on the phone during working hours. The respondent contended that Mr Stoica had been paid for his work correctly and provided with all the necessary pay records and other documentation. The respondent also contended that "*due to [Mr Stoica's] abusive language over the phone, as well as constant abusive messages*" they had expedited the payment.

The Facts

7. On 20 November 2024, Mr Stoica emailed the Tribunal as follows:

"[...]

Also I request to be moved my case in Watford if not then I can't be attending at Central London. I pay the Uber more than it's necessary and stay almost 2 hours in traffic like it's happen to me before. And nobody pays my transport and my time. No thanks."

8. The Tribunal wrote to the respondent, seeking its views on the requested transfer, to which Mr Stoica replied on 21 November 2024 as follows:

"This is my request not them. I suggest you to take consideration this. Not to ask them. They're suspects not victims. Move my case to Watford immediately."

9. The respondent did not object to the case being transferred to Watford, assuming the date and time of the hearing would remain the same.

10. The claimant's transfer request was passed to the Regional Employment Judge Freer for his decision.

11. On 27 November 2024, a legal officer wrote to the parties as follows:

*"Dear Parties
Please note that your request to transfer the claim to Watford is with the Regional Employment Judge for consideration. In the meantime, the hearing on 6 December is still due to take place. If you wish to apply for a postponement, please reply urgently in order for the Tribunal to consider the same...."*

12. The respondent replied on the same day, asking the claim to remain in London Central ET to keep the listing.

13. Mr Stoica replied shortly after that as follows:

"Do i speak Chinese to you? From when you ask the suspects if they're agree? From when the suspects are being victims? From when you start to steal my rights and provide to the suspects? Who fo you think you're?"

14. On 29 November 2024, I issued the following order:

"Dear Sir,

Having reviewed your recent correspondence with the Tribunal, Employment Judge Klimov is considering striking out your claim under Rule 37(1)(b) of the Employment Tribunals Rules of Procedure 2013, because he considers that the manner in which the proceedings have been conducted by you has been scandalous, unreasonable or vexatious.

In particular, on 27 November 2024, responding to an email from our Legal Officer of the same date, in which she explained that your request to transfer your case to Watford Employment Tribunal was still awaiting a decision from the Regional Employment Judge, you wrote:

"Do i speak Chinese to you? From when you ask the suspects if they're agree? From when the suspects are being victims? From when you start to steal my rights and provide to the suspects? Who fo you think you're?"

*If you wish to make any representations as to why your claim should not be struck out for that, you must send your representations by no later than **4pm on Monday, 2nd December 2024**. The representations must be sent by email to: londoncentralet@justice.gov.uk and marked in the email subject field: **For Urgent Attention of EJ Klimov - 2219341/2024 Mr A S Stoica v Emplink Limited**.*

Meanwhile, your claim remains listed for the final hearing (in person) at London Central Employment Tribunal on 6 December 2024, starting at 10am."

15. Mr Stoica did not reply by the set deadline. On 4 December 2024, on my instructions, the Tribunal wrote to Mr Stoica as follows:

"Dear Sir,

You have not responded to the strike out warning sent to you on 29 November 2024 (see below). The email was sent to the email address you put in your ET1 (adrian.stoica.uk@gmail.com). However, we note that your recent emails to the Tribunal came from a different email address (adrian10.stefan345.uk1@gmail.com).

Employment Judge Klimov has asked me to forward the original strike out warning email. He orders that you provide representations as to why your claim should not be struck out by **4pm, today, 4 December 2024**. The Judge will then make a decision whether to strike out your claim or proceed with the hearing on Friday, 6 December 2024. If your claim is not struck out, the hearing will be in person in London Central Employment Tribunal."

16. In reply, Mr Stoica sent six emails:

"mie., 4 dec. 2024, 10:52 Adrian10 Stefan345 <adrian10.stefan345.uk1@gmail.com> a scris:

Strike out my claim for what?"

mie., 4 dec. 2024, 10:53 Adrian10 Stefan345 <adrian10.stefan345.uk1@gmail.com> a scris:

Plus I didn't receive it.

mie., 4 dec. 2024, 10:54 Adrian Stoica <adrian.stoica.uk@gmail.com> a scris:

Do you think I have time to play games with my rights?

From: Adrian Stoica <adrian.stoica.uk@gmail.com>

Sent: 04 December 2024 10:57

Cc: legalofficer.londoncentralet

Subject: Re: FW: 2219341/24 - Adrian Stefan Stoica v Emplink Limited - URGENT HEARING 6 DECEMBER

And plus I always reply to you on this email address. I didn't provided to you the another. Where do you have it other email address of mine? Stop playing games with me."

"From: Adrian10 Stefan345 <adrian10.stefan345.uk1@gmail.com>

Sent: 04 December 2024 12:15

To: legalofficer.londoncentralet

Subject: Re: FW: 2219341/24 - Adrian Stefan Stoica v Emplink Limited - URGENT HEARING 6 DECEMBER

Attachments: image001.png

You're not allowed to contact me on this email address."

"From: Adrian Stoica <adrian.stoica.uk@gmail.com>

Sent: 04 December 2024 13:38

To: legalofficer.londoncentralet

Subject: Re: FW: 2219341/24 - Adrian Stefan Stoica v Emplink Limited - URGENT HEARING 6 DECEMBER

Attachments: image001.png

Follow Up Flag: Follow up

Flag Status: Flagged

The reason it's declared on my statement. I don't repeat like an idiot multiple times. I don't tolerate to be a victim of fraud and robbery from these criminals. Plus I was fired by them. I didn't quit. The reason you even today I didn't receive any the Schedule of losses from you. Once I report to you it's dismissal unfair in ET1 form. For this I'll make a report against you."

17. On the same day, at 16:50, on my instructions the Tribunal wrote to Mr Stoica as follows:

"Dear Sir,

Employment Judge Klimov has asked me to respond to your six emails of today's date as follows.

"The email address the Tribunal has for the claimant is the email address the claimant put in his ET1 (adrian.stoica.uk@gmail.com), stating that he preferred to be contacted on that email. If the claimant's contact details have since changed, the claimant must notify the Tribunal and the respondent accordingly.

The claimant was ordered to make representations as to why his claim should not be struck out under Rule 37(1)(b) of the Employment Tribunals Rules of Procedure 2013 for scandalous or unreasonable conduct. The conduct in question is his email to the Tribunal of 27 November 2024, in which he wrote:

"Do i speak Chinese to you? From when you ask the suspects if they're agree? From when the suspects are being victims? From when you start to steal my rights and provide to the suspects? Who fo you think you're?"

In neither of his six emails of today did the claimant make any substantive representations on this issue. In particular, he does not say whether he accepts that his conduct in sending the 27 November email was scandalous or unreasonable. If not, why not? If he accepts that his conduct was scandalous or unreasonable, why he says his claim nonetheless should not be struck out.

Considering that the claimant claims that he had not received the original strike out warning email of 29 November until today, I give the claimant a further and final opportunity to submit his representations by 12pm, tomorrow, 5 December 2024. The claimant is encouraged to seek legal advice before responding to the Tribunal."

18. Mr Stoica replied with five emails:

"mie., 4 dec. 2024, 17:37 Adrian Stoica <adrian.stoica.uk@gmail.com> a scris:

Who do you you think you're to talk with me like that?"

mie., 4 dec. 2024, 17:38 Adrian Stoica <adrian.stoica.uk@gmail.com> a scris:

You cross the line lady.

joi, 5 dec. 2024, 10:29 Adrian Stoica <adrian.stoica.uk@gmail.com> a scris:

I already told you yesterday. If you don't want to understand than you have a problem."

"From: Adrian Stoica <adrian.stoica.uk@gmail.com>

Sent: 05 December 2024 02:03

To: legalofficer.londoncentralet

Subject: 2219341/24 Adrian Stefan Stoica v Emplink Limited - URGENT HEARING 6 DECEMBER

Where did this come from like you to struck out my case for what reason?"

"From: Adrian Stoica <adrian.stoica.uk@gmail.com>

Sent: 05 December 2024 14:10

To: legalofficer.londoncentralet

Subject: Re: 2219341/24 Adrian Stefan Stoica v Emplink Limited - URGENT HEARING 6 DECEMBER

Cancel the hearing for tomorrow. Personal reasons. Provide another hearing date to Watford"

19. On 5 December 2024, at 16:53, the Tribunal sent the following letter by email to the parties:

"Dear Sir,

Your six (sic) emails of yesterday and today have been passed to Employment Judge Klimov, who asked me to write to the parties as follows:

I shall consider the Claimant's representations overnight and will announce my decision on whether the Claimant's claim should be struck out at the start of the hearing tomorrow morning.

I treated the Claimant's email of 5 December 2024 at 2:10 pm ("Cancel the hearing for tomorrow. Personal reasons. Provide another hearing date to Watford") as an application under Rule 30A of the Employment Tribunals Rules of Procedure 2013 ("the ET Rules") to postpone the hearing. The application is refused, because it does not disclose any permissible grounds upon which a postponement may be granted. The hearing remains listed for tomorrow, 6 December 2024, starting at 10 am. The parties must arrive at the Tribunal by 9.30 am.

The Claimant is reminded that under Rule 92 of the Employment Tribunal Rules he must copy the Respondent on his correspondence to the Tribunal."

20. Mr Stoica replied with 4 emails:

"joi, 5 dec. 2024, 16:59 Adrian10 Stefan345<adrian10.stefan345.uk1@gmail.com>

I told you to cancel or I'll report you. It's up to you.

joi, 5 dec. 2024, 17:00 Adrian10 Stefan345 <adrian10.stefan345.uk1@gmail.com> a scris:

For this threats I'll take all legally actions against you.

joi, 5 dec. 2024, 17:07 Adrian10 Stefan345 <adrian10.stefan345.uk1@gmail.com> a scris:

If I already told you i I cannot come for personal reasons I refuse myself your request for tomorrow. You can't force someone to come with threats and try to intimidate me. This totally abusive plus after you want to struck out my case for no reason. I don't tolerate your corruption. From now on I'll take legally actions against you. Be aware. Everything it's being recorded.

Adrian10 Stefan345<adrian10.stefan345.uk1@gmail.com> joi, 5 dec. 2024, 17:09

Plus you violate my private data and still continue to harass me on this email without my consent."

21. Mr Stoica did not arrive at the Tribunal for the hearing. The respondent, represented by Mr Goslar, was in attendance. Before starting the hearing, I asked my clerk to contact Mr Stoica to check why he was not in attendance. Mr Stoica did not provide his telephone number in his ET1 and indicated that he preferred to be contacted by email.

22. At 9:59am, my clerk emailed Mr Stoica as follows:

"Dear Mr Stoica,

Employment Judge Klimov has asked me to email you as you have not yet arrived at the London Central Employment Tribunal for today's hearing. The hearing is scheduled to begin at 10 am and will go ahead in your absence should you not attend."

23. Mr Stoica did not reply. He did not arrive at the Tribunal for the start of the hearing. I waited until 10:18am before starting the hearing.

24. Having considered the materials before me, I decided to strike out the claim under Rule 37(1)(b) of the Employment Tribunals Rules of Procedure 2013 ("**the ET Rules**"), because the manner in which the proceedings have been conducted by the claimant has been scandalous, unreasonable or vexatious. The reasons for the decision are set out in the Analysis and Conclusion section below.

The Law

25. Rule 37 of the Employment Tribunals Rules of Procedure 2013 (the “ET Rules”) provides:

37.— Striking out

(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—

.....;

(b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;

26. In Bolch v Chipman [2004] IRLR 140, the EAT set out the test that the Tribunal should apply when considering whether a claim or response should be struck out under Rule 37(1)(b). The test was affirmed by the Court of Appeal in Abergaze v Shrewsbury College of Arts & Technology [2009] EWCA Civ 96 and summarised by Elias LJ at paragraph 15:

“In the case of a strike out application brought under [r 37(1)(b)] it is well established that before a claim can be struck out, it is necessary to establish that the conduct complained of was scandalous, unreasonable or vexatious conduct in the proceedings; that the result of that conduct was that there could not be a fair trial; and that the imposition of the strike out sanction was proportionate. If some lesser sanction is appropriate and consistent with a fair trial, then the strike out should not be employed.”

27. The rule requires the Tribunal to find that the conduct of the proceedings was scandalous, vexatious or unreasonable. The purpose of the rule was set out in Bennett v Southwark LBC [2002] EWCA Civ 223 by Sedley LJ at paragraph 26:

“What the rule is directed to... is the conduct of proceedings in a way which amounts to an abuse of the tribunal’s process: abuse is the genus of which the three epithets scandalous, frivolous and vexatious are species.”

28. In Blockbuster Entertainment Ltd v James, [2006] EWCA Civ 684, Sedley LJ said:

*“5. This power, as the employment tribunal reminded itself, is a Draconic power, not to be readily exercised. It comes into being if, as in the judgment of the tribunal had happened here, a party has been conducting its side of the proceedings unreasonably. **The two cardinal conditions for its exercise are either that the unreasonable conduct has taken the form of deliberate and persistent disregard of required procedural steps, or that it has made a fair trial impossible. If these conditions are fulfilled, it becomes necessary to consider whether, even so, striking out is a proportionate response.** The principles are more fully spelt out in the decisions of this court in Arrow Nominees v Blackledge [2000] 2 BCLC 167 and of the EAT in De Keyser v Wilson [2001] IRLR 324, Bolch v Chipman [2004] IRLR 140 and Weir Valves v Armitage [2004] ICR 371, but they do not require elaboration here since they are not disputed. It will, however, be necessary to return to the question of proportionality before parting with this appeal.*

[...]

*18. The first object of any system of justice is to get triable cases tried. There can be no doubt that among the allegations made by Mr James are things which, if true, merit concern and adjudication. There can be no doubt, either, that Mr James has been difficult, querulous and uncooperative in many respects. Some of this may be attributable to the heavy artillery that has been deployed against him, though I hope that for the future he will be able to show the moderation and respect for others which he displayed in his oral submissions to this court. But the courts and tribunals of this country are open to the difficult as well as to the compliant, **so long as they do not conduct their case unreasonably.**” (emphasis added)*

29. “Scandalous” does not mean “shocking” but in this context has two narrower meanings: “one is the misuse of the privilege of legal process in order to vilify others; the other is giving gratuitous insult to the court in the course of such process” (Bennett at paragraph 27). And in Bolch, page 12:

“For example, it may well be, on appropriate facts, that a Tribunal might find that if there were a threat that unless proceedings were withdrawn some course or other could be taken, that that would amount to a scandalous method of conducting those proceedings...”

30. The meaning of “vexatious” was considered in Attorney General v Barker [2000] EWHC 453 where Bingham LJ held (at paragraph 19):

“The hallmark of a vexatious proceeding is in my judgment that it has little or no basis in law (or at least no discernible basis); that whatever the intention of the proceeding may be, its effect is to subject the defendant to inconvenience, harassment and expense out of all proportion to any gain likely to accrue to the claimant and that it involves an abuse of the process of the court, meaning by that a use of the court process for a purpose or in a way which is significantly different from the ordinary and proper use of the court process.”

31. “Unreasonable” has its ordinary English meaning and is not to be interpreted as if it means something similar to ‘vexatious’ (Dyer v Secretary of State for Employment EAT 183/83).

32. In in T v Royal Bank of Scotland [2023] EAT 119 at paragraph 40, the EAT said:

“There are examples in the authorities of cases where the specific nature of a litigant's impugned conduct means that the conduct has itself inherently made it impossible for there to be a fair trial. From time to time there will also be cases where, unfortunately, a litigant's conduct is, for example, so threatening abusive or disruptive that, whatever the cause, it ought not to be tolerated and they will be done no injustice by being treated as having thereby forfeited their right to have their claim or defence tried, but outside of such cases a claim should not otherwise be struck out on account of conduct unless the conduct means or has created a real risk that the claim cannot be fairly tried. See De Keyser at [24] citing the discussion of the earlier authorities in Arrow Nominees .” (emphasis added)

33. In Emuemukoro v Croma Vigilant (Scotland) Ltd [2022] ICR 335 (at paragraph 19), Choudhury P reminded tribunals, when considering a strike-out application, to consider all the factors relevant to a fair trial, including whether a fair trial is possible within the allocated trial window, and not whether a fair trial is possible in an absolute sense.

“19 I do not accept Mr Kohanzad's proposition that the power can only be triggered where a fair trial is rendered impossible in an absolute sense. That approach would not take account of all the factors that are relevant to a fair trial which the Court of Appeal in Arrow Nominees [2000] 2 BCLC 167 set out. These include, as I have already mentioned, the undue expenditure of time and money; the demands of other litigants; and the finite resources of the court. These are factors which are consistent with taking into account the overriding objective. If Mr Kohanzad's proposition were correct, then these considerations would all be subordinated to the feasibility of conducting a trial whilst the memories of witnesses remain sufficiently intact to deal with the issues. In my judgment, the question of fairness in this context is not confined to that issue alone, albeit that it is an important one to take into account. It would almost always be possible to have a trial of the issues if enough time and resources are thrown at it and if scant regard were paid to the consequences of delay and costs for the other parties. However, it would clearly be inconsistent with the notion of fairness generally, and the overriding objective, if the fairness question had to be considered without regard to such matters.”

34. Rule 2 of the ET Rules provides:

“Overriding objective

The overriding objective of these Rules is to enable Employment Tribunals to deal with cases fairly and justly. Dealing with a case fairly and justly includes, so far as practicable—

- (a) ensuring that the parties are on an equal footing;*
- (b) dealing with cases in ways which are proportionate to the complexity and importance of the issues;*
- (c) avoiding unnecessary formality and seeking flexibility in the proceedings;*
- (d) avoiding delay, so far as compatible with proper consideration of the issues; and*
- (e) saving expense.*

*A Tribunal shall seek to give effect to the overriding objective in interpreting, or exercising any power given to it by, these Rules. **The parties and their representatives shall assist the Tribunal to further the overriding objective and in particular shall co-operate generally with each other and with the Tribunal.**” (emphasis added).*

35. Rule 47 of the ET Rules provides:

“47. Non-attendance

If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party’s absence.”

Analysis and Conclusions

Has the manner in which the proceedings have been conducted by the claimant been scandalous, unreasonable or vexatious?

36. The facts set out above speak for themselves. I find that the claimant’s conduct has been all three: unreasonable, scandalous and vexatious. Not only has Mr Stoica been rude in his communications with the Tribunal, making various demands, commands and threats, and using foul language, but he has also showed total disregard of the Tribunal’s orders and the ET Rules. In my judgment, his overall conduct of the proceedings is an abuse and insult to the judicial process as a whole, upon which process he embarked seeking protection of his rights.

37. I also find that the way in which he has been conducting these proceedings has the effect of subjecting the respondent (and indeed the Tribunal’s staff) “to *inconvenience, harassment and expense out of all proportion to any gain likely to accrue to the claimant*” (see paragraph 30 above).

38. The total value of Mr Stoica’s wages claim (even if succeeded) would have resulted in an award of no more than £50-£100, and probably less. His complaint of unfair dismissal was always doomed to fail. That is because even if he would have been able to establish that he was in fact an employee of the respondent, he only had 5 days of continuous service (see s.108 Employment Rights Act 1996 (“**ERA**”))¹. For the same reason he would not have been entitled to any statutory notice pay (s.86 ERA).

¹ On 13 June 2024, the Tribunal sent to Mr Stoica a strike out warning about his unfair dismissal complaint, asking to show cause by 27 June 2024, to which Mr Stoica did not reply.

39. Against that background, Mr Stoica's conduct of accusing the respondent of robbery and fraud, threatening the respondent and its staff with criminal prosecution, and in doing so going to such a length that his insulting and abusive messages caused a female member of the respondent's staff to take time off work to recover, is nothing short of a prime example of vexatious conduct.
40. In short, I find Mr Stoica's conduct is so abusive and insulting that it must not be tolerated, and that no injustice will be done by treating it as having the effect of Mr Stoica forfeiting his right to have his claim tried by the Tribunal (see paragraph 32 above).

Should the claim be struck out?

41. In my view this conclusion is sufficient for me to exercise my discretion under Rule 37(1)(b) and strike out the claim. Considering the overriding objective, I find that it is just and proportionate for me to exercise that power and strike out the claim.
42. In simple terms, Mr Stoica has committed a "red card offence" and should be sent off, without me having to consider whether despite of him doing so, he should be allowed to "play on" because it could still be a fair contest, and without me having to inquire whether the respondent would be intimidated by Mr Stoica "remaining on the pitch".

Is a fair trial still possible?

43. If, however, I am wrong on that, I do find that in the circumstances a fair trial is no longer possible. That is because Mr Stoica chose not to attend the hearing, despite his very late application for a postponement had been refused. In essence, he removed himself from the trial. Thus, there is no "fair trial" to be had in the allocated trial window (see paragraph 33 above).
44. In any event, the issue is somewhat academic. Even if the claim had not been struck out under Rule 37(1)(b), I would have dismissed it under Rule 47 of the ET Rules. Mr Stoica seems to think that he can dictate to the Tribunal when and where his claims should be tried. He is wrong on that. He also seems to think that he does not need to provide any good reasons why the hearing that had been listed back on 17 September 2024 should be postponed on a day's notice for his "*personal reasons*". He is wrong on that too. Under Rule 30A(2)(c) of the ET Rules, in those circumstances the hearing may only be postponed by the Tribunal if "*there are exceptional circumstance*". Mr Stoica's application does not disclose any such exceptional circumstances. It is Mr Stoica's claim. Without a valid reason he chose not to turn up to prosecute it before the Tribunal. Therefore, it would be only just and proper to dismiss it under Rule 47 for non-attendance.

45. Furthermore, even if the claim had not been struck out under Rule 37(1)(b), it would have been doomed to fail on the merits at the hearing. Having reviewed the evidence provided by Mr Stoica (including a 14sec video of Mr Stoica cutting out a balustrade), I find that without Mr Stoica explaining to me at the hearing on what basis he claims he was an employee or a worker of the respondent, and on what basis he claims that the respondent has made unauthorised deduction from his wages, his submitted documentary and video evidence was wholly insufficient to make good his case on any of the complaints. Therefore, his claim would have stood to be dismissed, even without me having to hear from the respondent. In any event, the respondent's documentary evidence in defence of the claim was far more cogent and compelling. Without Mr Stoica being there to challenge the respondent's evidence, there would have been no reason for me not to accept the respondent's evidential case, which would have been put to me at the hearing by Mr Goslar.

Is strike-out proportionate, or would a lesser sanction suffice?

46. Finally, I do not see how in the circumstances a lesser sanction would be more appropriate. Any lesser sanction (for example, a wasted costs order against Mr Stoica, or an unless order of some kind) would necessarily involve me adjourning the hearing for a later date, which, in my judgment, would not only be disproportionate and not in accordance with the overriding objective, but have the effect of the Tribunal condoning Mr Stoica's scandalous, unreasonable and vexatious conduct and encouraging him to continue to behave in that wholly unacceptable manner.

Overall conclusion

47. For all these reasons, Mr Stoica's claim is struck out.

Employment Judge Klimov

7 December 2024

Sent to the parties on:

12 December 2024

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For the Tribunals Office