



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss V Hart

**Respondent:** Yorkshire Academy of Creative Arts & Dance Ltd

**Heard at:** Leeds By CVP      **ON:** 27 August 2024

**BEFORE:** Employment Judge JM Wade

**REPRESENTATION:**

**Claimant:** In person

**Respondent:** Mr M Pratt Operations  
Director

## JUDGMENT

The claimant's claims are struck out.

## REASONS

1. This hearing was arranged to consider striking out/depositing the claimant's claims.
2. The respondent is a not for profit company limited by guarantee delivering creative arts and dance workshops and programmes. I was told today that before 2020 its activities were operated through sole tradership. When the organisation incorporated in 2020, its volunteers, including the claimant and Mr Pratt, acted as directors/trustees. They had previously been long standing friends. Separately, I am told, payment was made to directors/volunteers for particular programmes, on a self employed basis. This dispute is about events from July to September 2022 and the parties' positions are set out in the claim and response forms.
3. The claimant's claims were discussed at a preliminary hearing on 17 May 2024 which resulted in a 15 page case management order. The claimant and Mr Pratt confirmed today that they had received the Order.

4. Some of the allegations in the claim form (for instance defamation) are outside the jurisdiction of the Tribunal. The potential and apparent claims within the jurisdiction were discussed by the Judge and orders were given that by 19 July 2024:
  - 4.1. the claimant write to the Tribunal copied to the respondent to explain why her claim was not presented within normal time limits and why it took her until 8 August 2023 to contact ACAS and until 10 August 2023 to present her claim form about events July to September 2022;
  - 4.2. If she wished to rely upon medical evidence to support that information, that evidence was to be provided;
  - 4.3. the parts of her medical records which were relevant to her contention that at the material times (July to September 2022) she was a disabled person by reason of Emotionally Unstable Personality Disorder, Anxiety and PTSD; and
  - 4.4. The usual written information about the effects on day to day activities of the impairments.
5. It was apparent at the start of this hearing that the claimant had provided none of the above.
6. Her reason, she said, was that the parties were using ACAS to try and settle the case. She said that all she wished from this case is a reference from the respondent which referred back to her work from 2014 onwards because without it her career is impaired.
7. The claimant wrote to the Tribunal on 12 August asking for information about what will happen now and when, because ACAS agreement had not been reached.
8. On 21 August a letter was sent by the Tribunal telling the claimant she needed to respond to the specific questions at paragraph 20 of the case management orders (the time limit information above) and reminding her of today's hearing.
9. The claimant said today she had some medical evidence, but did not know where to send it and in an email at 8.29 this morning she said this: "I have 2 pieces of evidence to support my case but I do not know where to send these documents." That is not the case when the claimant has been able to email the Tribunal and the respondent and that is all she was directed to do with her information and evidence.
10. The position before me today is that I am being asked, in effect, to allocate time now to enable the claimant to send the documents, and to then take stock. The respondent says, quite properly, it will need time to consider documents it was supposed to have had four weeks ago. In those circumstances fairness would require an adjournment of today's hearing, and/or the issue of an unless order that the claims will be struck out unless the claimant complies with all of the orders by a certain date.

11. Those options involve more resources for these proceedings. The claims are still so unclear that they have no reasonable prospects of success as they stand and until clarified. In truth the claimant has not engaged with the lengthy case management orders at all, but at the very last minute has looked at her own medical records on line and tells me she can provide this information. Were I to wait for that evidence to be submitted late, that does not overcome the lack of the claimant's own account, as directed, about the delay in this case. I would then have to give the respondent sufficient time to consider the missing material.
12. Fairness involves fairness to all parties. Striking out claims because there is no reasonable prospects of a Tribunal deciding they are in time/or no reasonable prospects of a Tribunal extending time is relatively rare. The law is set out at Rule 37(1)(a) if the Employment Tribunals (Constitution and Rules of Procedure) 2013 Schedule 1. It is rare because, in most circumstances, when ordered to provide the underlying information and material to overcome such difficulties, parties do so. It is also rare because Tribunal resources in the past have been greater with the propensity to allocate more time in circumstances such as these. There has for some time been a great strain on the Tribunal's resources. It is not fair to every other Tribunal user to allocate more resources than are proportionate to particular cases.
13. In exercising my discretion I weigh in the mix that the remedy the claimant wishes, a reference covering a greater period of work, is not a remedy this Tribunal can give even if an arguable claim were to be identified and were to succeed.
14. In the circumstances above, there is no prospect of the claimant overcoming the time limit issues she faces in pursuing unclear whistleblowing and/or discrimination complaints about events in the summer of 2022 presented in August 2023, and I strike out the claims. It seems to me that the claimant suffers no real prejudice given her aim, whereas the parties (including the claimant) will have the ongoing strain of these proceedings in an attempt to achieve a result which cannot be delivered.

Employment Judge JM Wade  
27 August 2024