



# EMPLOYMENT TRIBUNALS

**Claimant**

**AND**

**Respondent**

Mr R V Mighton

London Underground Limited and others

**Heard at:** London Central

**On:** 24 September 2018

**Before:** Employment Judge Wade

**Representation**

**For the Claimant:** In person

**For the Respondent:** not present or represented

## RESERVED JUDGMENT AT A RULE 27 PRELIMINARY HEARING

1. The judgment of the Tribunal is that the claims are not permitted to proceed under Rule 27.

## REASONS

1. This is the claimant's seventh Tribunal claim. He claims unfair dismissal, race and disability discrimination and arrears of pay. He also advances personal injury claims over which this tribunal has no jurisdiction. The substance of all claims has been brought before and this decision contains the same reasoning as before; I have copied some of the wording in this section across from previous judgments as it applies in this case too. A summary of the past claims is as follows:

1.1 Claim 3200845/2014 was withdrawn by the claimant.

1.2 Claim 2202261/2014 was dismissed after full hearing 9 June 2015.

1.3 Claim 3202079/2016 was dismissed after a full hearing on 6 July 2016 of claims of unfair dismissal, race discrimination and arrears of pay.

1.4 Claim 2208049/2016 was dismissed at Preliminary Hearing on 16 February 2017. In summary, this was because the claims had already been adjudicated (res judicata), should have been raised at the material time (abuse of process) and were out of time.

1.5 Claim 2201026/2017 was dismissed after a Rule 27 Hearing on 17 August 2017. The judgment from the Preliminary Hearing of 16 February was attached as the reasoning was the same.

1.6 Claim 2207502/2017 was dismissed after a Rule 27 Hearing on 5 March 2018.

2. This current claim was filed on 12 March 2018, just a few days after the previous claim had been dismissed. The respondent defended the claim and asked for it to be struck out. A Rule 27 notice was sent to the claimant on 5 July 2018, summarising why Employment Judge Wade was of the view that the claim had no reasonable prospect of success:

“Having considered the file, Employment Judge Wade is of the view that the Tribunal has no jurisdiction to consider the claim and/or that the claim has no reasonable prospect of success for the following reasons:

1. The Claimant has litigated in relation to the same issues seven times and his claims appear to be barred because they have already been decided (res judicata) or are an abuse of process.
2. He names 38 additional respondents this time, more than he has ever named before, but they are all named in relation to the same issues. Some are employees of the respondent, some former employees and one is the Commissioner for Transport for London. Some are clearly not relevant to the claim and it is most unlikely that it is appropriate that those not named in previous claims should now become respondents. The respondent says that the additional respondents have been named vexatiously and this seems likely.
3. All the claims are out of time as the Claimant's employment ended on 27 August 2015.
4. Further, in relation to his asthma, the Tribunal does not have jurisdiction to consider a personal injury claim.
5. His sixth claim, 2207502/17, which relates to the same matters as pleaded here, was dismissed under Rule 27 on 5 March 2018 and the EAT dismissed the appeal 15 May as being totally without merit. Mrs Justice Simmler warned that the claimant was at risk of civil restraint proceedings.

Employment Judge Wade ORDERS that the claim will stand dismissed on 27 July without further order, unless before that date the claimant has explained in writing why the claim should not be dismissed.

EJ Wade has considered the claimant's request that she should not case manage this claim. If she thought that it would make any difference to the claimant's determination to pursue these claims when he has been told several times by the EAT that the claims are totally without merit she would refer the case to another judge, and would be pleased to do so, but she does not. Therefore, bearing in mind the scarce resources of the Tribunal it is more efficient for her to case manage this claim and there is no reason why she should not do so."

3. On the claimant objecting to the claim being struck out this hearing was listed.

4. Since the Rule 27 notice was sent to him the claimant has sent the Tribunal a number of emails with attachments. A number relate to his poor health allegedly arising from his work and the personal property in his locker which he says was stolen. The Tribunal does not have jurisdiction over either matter. I have looked through his documents, but I have not read every page, I have also found his arguments hard to understand. Therefore I gave the claimant the opportunity to summarise his arguments at the hearing and this gave me the opportunity to know whether there were any new points.

5. The claimant feels strongly that he has never been properly heard and that all the considerable evidence which he supplied to his employer, to the previous tribunals and in correspondence should be thoroughly considered at a full hearing. He says that he had been portrayed as a bad person and I wish to emphasise that my decisions are not about him as a person; what I am doing is applying the law to his claim.

6. Mr Mighton does not agree that he has already had two full hearings nor does he accept that if he was unhappy with the tribunal judgment the opportunity to appeal, which he exercised unsuccessfully, was the correct and indeed only route for addressing this.

### **Conclusions**

7. I am sorry to say that the claimant's arguments have not changed my initial view that this claim has no reasonable prospect of success for the reasons set out in the Notice of 24 January and so the claims are struck out.

8. The "new" points are an allegation of disability discrimination in that the relevant box at section 8.1 of the ET1 is ticked and the addition of 38 Respondents, plus a recent application to add more:

- a. The disability discrimination claim relates to the personal injury claim, the claimant says that inhaling toxic fumes whilst working on escalators caused ill health. As I have explained a number of times, the tribunal has no jurisdiction over such claims.
  - b. The respondents (of whom 10 are actually witnesses) were all involved in one way or another in the problems which arose during the claimant's employment and during the preliminary hearing on 24 September Mr Mighton took me through the part they all played. Therefore, their addition does not overcome the key barriers to Mr Mighton's claim as set out above: res judicata and time limits.
9. Mr Mighton emphasises that he has not had legal advice, although he did have lawyers from time to time. This does not affect the conclusions above, not least as he is now a very experienced litigator. Many claimants come to the tribunal in person and the role of the judge is to apply the law fairly bearing this in mind. I believe that I have done so although Mr Mighton is of course free to appeal to the Employment Appeal Tribunal.

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**Employment Judge Wade**

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**Date 24 September 2018**

**REASONS SENT TO THE PARTIES ON**

**25 September 2018**

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**For the Tribunal Office**