



EMPLOYMENT TRIBUNALS

Claimant

Mr S Cees Martinez

v

Respondent

LSEG Employment Services

PRELIMINARY HEARING

Heard at: London Central Employment Tribunal **On:** 5 October 2018

Before: Employment Judge Davidson

Appearances

For the Claimant: Mr J Cook of Counsel

For the Respondent: Mr J Lewis of Counsel

JUDGMENT

Issues

The Issues for the hearing were as follows:

1. The Respondent's application for an order for
 - a. a strike out of the unlawful deductions from wages claim on grounds that it relates to a discretionary bonus and has no reasonable prospect of success;
 - b. alternatively, a deposit order in relation to the deduction from wages claim on the basis that it has little reasonable prospect of success; and/or
 - c. a deposit order in relation to the victimization claim on the grounds that the claim has little reasonable prospect of success.

2. The Claimant's application for
 - a. amendments to his Originating Application to include matters arising after the submission of the Originating Application and
 - b. amendments to his Originating Application to include matters arising prior to the submission of the Originating Application which had not been included in the original claim.

Determination of the Issues

The tribunal determined the issues as follows:

RESPONDENT'S APPLICATIONS

1. The respondent's applications will not be considered at this hearing. I find that insufficient notice has been given to the claimant and the hearing was not listed to deal with this application.
2. The current hearing dates in January/February 2019 will be vacated save for 1 February 2019 which will be converted to an Open Preliminary Hearing to deal with the respondent's strike out and deposit applications.

CLAIMANT'S APPLICATION

3. The claimant's application to amend his originating application to include further matters arising before his original ET1 was filed and matters which arose after it was filed is refused. It is open to the claimant to lodge a fresh ET1 to deal with these matters.
4. I have taken into account the uncertainty in the line of authorities on the issue of whether limitation points can be taken in relation to matters included by way of an amendment. It is not an uncertainty I can resolve. I therefore find that the prejudice to the respondent in potentially being barred from running a time defence to the new matters is greater than the prejudice to the claimant in having to file a fresh claim. The respondent will be able to plead time issues and a tribunal will be able to consider evidence on time issues and any application to extend time and adjudicate with the benefit of hearing evidence.
5. If the claimant submits a fresh claim, it will be consolidated with this claim and the hearing will address the issues raised in both claims.

Employment Judge Davidson

Date: 10 October 2018

JUDGMENT and SUMMARY SENT to the PARTIES ON

15 October 2018

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FOR THE TRIBUNAL OFFICE