



EMPLOYMENT TRIBUNALS

Claimant

AND

Respondent

Mr R V Mighton

London Underground Limited

Heard at: London Central

On: 7 January 2020

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 Rules 27 and 37 because they have no reasonable prospect of success.

REASONS

The hearing

1. This is the claimant's ninth Tribunal claim (the tenth including one which was rejected when filed) and fifth Rule 27 hearing. He claims unfair dismissal, race discrimination and arrears of pay. These are all claims which he has brought before and this decision contains the same reasoning as before; I have copied some of the wording in these Reasons across from earlier judgments as there is little new left to say. 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1.1 Claim 3200845/2014 was withdrawn by the claimant.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. The judgment from the Preliminary Hearing of 16 February was attached as the reasoning was the same.

1.7 Claim 2201896/2018 was dismissed after a Rule 27 Hearing on 24 September 2018. The judgment from the Preliminary Hearing of 16 February was attached as the reasoning was the same.

1.8 Claim 220062/19 was dismissed after a Rule 27 Hearing on 14 May 2019.

2. This current claim was filed on 27 June 2019. The respondent defended the claim and asked for it to be struck out. A Rule 27 notice was sent to the claimant on 15 October 2019, 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 the same issues nine 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 only four additional respondents this time, but although some, like “Reverend Mother” Kustner, have not been named before, they are all named in relation to the same issues. 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 and his property, the Tribunal does not have jurisdiction to consider a personal injury claim.

5. His eighth claim, 2200062/19, which related to the same matters as pleaded here, was dismissed under Rule 27 on 14 May.”

3. The eighth claim, 2200062/19 was dismissed by EAT on 3 December 2019. The President of the EAT, Mr Justice Choudhury said that the case was totally without merit and “There was absolutely no error of law in the tribunal concluding that this allegedly new evidence does not assist the Appellant. It is not open to a litigant repeatedly to raise the same issues. The Appellant’s appeals are vexatious”.

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

The claimant’s submissions

5. Since the Rule 27 notice was sent to him the claimant has sent the Tribunal emails with attachments and provided further documents at the hearing and I listened to what he had to say. The claimant has unfortunately now been diagnosed with COPD which he says arose from the respondent’s failure to deliver its duty of care. He confirmed that the Reverend Mother had in fact supported him at an earlier disciplinary hearing, he did not criticise her. His written notes again referred to defamation. The Tribunal does not have jurisdiction over these matters, and Mr Mighton understands this, but said it should.

6. 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 another full hearing.

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 October and so the claims are struck out. The fact that the law is not, according to the claimant, as it should be, is not a reason I can take into account. What was said in the judgment of August 2017 is repeated here:

“The claimant has had two substantive hearings of the facts. The last claim, and this one, have been struck out at the preliminary stage because they are essentially a repetition of earlier matters and there are strong and clear legal rules preventing this, as well as rules on time limits. It is not in the interests of justice for the claimant to be allowed more trials of the same facts and I fear that if he does try to continue to litigate he will face more frustration because his opportunity to have a full trial of the facts has expired.”

8. I have met Mr Mighton many times now and we always have a pleasant conversation. I hope he has a happy time in Jamaica, where he is going shortly.

He urges me to “Do the right thing”. Unfortunately, he and I disagree about what that is.

Employment Judge Wade

7 January 2020

Date

REASONS SENT TO THE PARTIES ON

13 January 2020

For the Tribunal Office

FOR THE TRIBUNAL OFFICE