



EMPLOYMENT TRIBUNALS
London Central Region

Heard by CVP on 10/12/2021

Claimant: Dr C Mallon

Respondent: Johnson Matthey PLC

Before: Employment Judge Mr J S Burns

Representation

Claimant: In person

Respondent: Mr P Nainthy EEF Ltd t/a Make UK

JUDGMENT

The Respondent's application to strike out the claims is dismissed.

REASONS

1. I referred to a bundle of documents of 113 pages and to a Respondent's skeleton argument and to a Claimant's witness statement in the form of an email dated 30 November 2021.
2. I heard evidence from the Claimant on oath.
3. The Claimant has claimed disability discrimination arising out of unsuccessful job applications he made to the Respondent in 2020 and in early 2021.
4. The matter was listed today as an OPH to consider *Whether any of the claims should be struck out on the grounds that they are scandalous, vexatious or have no reasonable prospects of success; Whether any of the claims should be dismissed because the Tribunal does not have jurisdiction to consider them because they were not presented in time and it would not be just and equitable to extend time; or A deposit order should be made in respect of any of the claims.*
5. The Claimant had stated in his ET1 "*I applied for lots of jobs and asked for oral applications because of my conditions and I was rejected or ignored*"
6. The Claimant was previously ordered by 31st August 21 to provide *further particulars about The roles for which he applied; The dates on which he applied for them; (if the Claimant does not have the above information he is to indicate whether he accepts that the details provided by the Respondent are correct) and the type of disability discrimination he is complaining about in respect of each of the job applications.*
7. He failed to comply with this order by 31/8/21 or at all but I ascertained at the beginning of the hearing that the Claimant does not dispute and accepts the chronology of job applications and related events as set out in the Respondent's skeleton argument, (which chronology I have set out in the Schedule to this Judgment) and that he claims direct disability discrimination and failure to make reasonable adjustments. The direct discrimination is said to consist in the rejecting of his applications because of his disability; and the failure to make reasonable adjustments is said to consist in failing to offer the Claimant oral interviews for the jobs he applied for.

8. The Claimant claims to be disabled by autism and dyspraxia. For the purposes of today's hearing I assumed that he was.
9. It is conceded by the Respondent that the claims are brought in time.
10. Insofar as the direct disability discrimination claim is concerned, the reasons why the job applications did not succeed are not clear in the evidence before me. Insofar as the claim for failing to make reasonable adjustments is concerned, it is conceded by the Respondent that at first the Claimant's applications for (i) the Senior Project Engineer and (ii) Multi-skilled Engineer - Fuel Cells jobs were rejected without the oral interviews which he had requested as a reasonable adjustment in his applications. Further evidence would be shed on both these matters at the trial.
11. I regard both these claims as having little reasonable prospect of success for the reasons set out in the separate deposit order, but I do not find that they have no reasonable prospect of success, so striking them out is inappropriate.

SCHEDULE

The Respondent's chronology is as follows: (numbers being references to page numbers in the OPH bundle)

- | | |
|------------|---|
| 18.09.2020 | C applies for Senior Scientist (Metals) role with R (p.59) |
| 23.09.2020 | R offers C an oral application (pp. 61-62) |
| 24.09.2020 | R informs C of questions to be asked in the oral application (p.60) |
| 25.09.2020 | C has oral application with R (pp.63/82/89) |
| 31.12.2020 | C applies for Multi Skilled Engineer – Fuel Cells role with R (p.64) |
| 28.01.2021 | R offers C oral applications for roles of Senior Project Engineer and Multi Skilled Engineer - Fuel Cells (pp.91 & 89-90) |
| 29.01.2021 | C responds by saying that he cannot now trust R (p.89) |
| 09.02.2021 | R informs C that he has been unsuccessful with his application for the role of Senior Scientist (Metals) (p.93) |
| 09.02.2021 | R offers C an oral application for the role of Utilities & Environmental Technical Authority (pp. 106-110) |
| 10.02.2021 | C has oral application with R for role of Utilities & Environmental Technical Authority (pp.94-96) |
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J S Burns Employment Judge
London Central
10/12/2021
For Secretary of the Tribunals
Date sent to parties:13/12/2021
