



EMPLOYMENT TRIBUNALS

Claimant: Mr D Betteridge

Respondent: LTE Group

Heard at: Leeds by CVP

On: 16 February 2023

Before: Employment Judge Maidment

Representation

Claimant: In person

Respondent: Mrs P Fernandez-Mahoney

JUDGMENT

The claim is struck out on the basis of it having no reasonable prospect of success.

REASONS

1. This preliminary hearing had been listed at an earlier private preliminary hearing on 12 January 2023 conducted by Employment Judge Lancaster. It was listed for the purpose of determining whether the claimant's complaints should be struck out on the basis of them having no reasonable prospect of success or, alternatively, their continuance being made conditional upon the payment of a deposit by the claimant on the basis that they had little reasonable prospect of success.
2. Employment Judge Lancaster summarised that the claimant had not identified in his ET1 tribunal application form any potential claim that was within the tribunal's jurisdiction. He noted that the claimant had not ticked any box at section 8.1 of the ET1 to indicate a claim of discrimination. The claimant had, however, stated within the section that he was seeking an

acknowledgement of discrimination and bias when recruiting. Attached to his claim was also a copy of his initial approach to ACAS for Early Conciliation in which he said that his claim was for disability discrimination. He referred to his disability as being dyslexia.

3. The tribunal today gave the claimant an opportunity to explain the types of claims he was seeking to bring and how they might amount to complaints of a type which could be pursued in an employment tribunal. The tribunal also allowed the claimant's union representative, Mr Murray, present in a supportive capacity, to assist, if he thought he was able, in identifying the claimant's complaints. Mrs Fernandez-Mahoney then made submissions on behalf of the respondent in support of a striking out of the claimant's claims. The claimant was given a further opportunity to respond and clarify how anything in his tribunal application might work as a legal complaint.
4. The tribunal recognises that complaints of discrimination ought to be struck out in only the clearest of cases. It might be said that the claim here is one of disability discrimination based on dyslexia. The tribunal has identified that the claimant is complaining of a refusal to interview and the respondent's refusal to respond to emails when the claimant sought information as to the reason why. The claimant has referred in documents attached to his claim to being a disabled person by reason of dyslexia, but did not refer at all to that condition today. He has been unable to identify anything in the recruitment process or in the respondent's lack of response to his emails which amounts to discrimination because of or related to dyslexia. The claimant appeared not to understand why he had been refused an interview and why the respondent was refusing to respond to his emails. He certainly was advancing no positive case as to the reason why. When the tribunal sought to allow him to articulate what that reason might be, the claimant could only refer to the respondent's response where disability status was not admitted. He did not explain how that might lead to any conclusion of disability discrimination.
5. The claimant had an opportunity obviously in his tribunal claim form to clarify the nature of his claims, in an agenda he submitted prior to the first preliminary hearing and at that first preliminary hearing itself. Certainly, since that hearing is has been made abundantly clear the difficulties the tribunal has in understanding the claimant's claim and in allowing it to proceed. Despite having had time to reflect, the claimant's position is essentially unchanged from that which Employment Judge Lancaster faced at the preliminary hearing on 12 January 2023.
6. The tribunal must take the claimant's complaint at its highest. However, even assuming disability status, there is no articulated complaint of disability discrimination with which the tribunal is able to engage.

7. The claimant was unrepresented when he submitted his claim form and remains so. The tribunal fully appreciates the need, in the interests of justice, for it to roll its sleeves up and seek to identify what complaints may be being pursued and how they might work in terms of the appropriate legal label to be attached to them. That is not, however, an exercise that can be undertaken on the basis of the information provided by the claimant up to this point. The tribunal would be guessing at or inventing claims which are simply not within the claimant's grounds of complaint or indeed within his mind at all at the present time. That would be a wholly impermissible exercise.

8. There is no articulated complaint of disability discrimination or of any other complaint in respect of which the employment tribunal has jurisdiction. In those circumstances the claim must be struck out as having no reasonable prospect of success.

Employment Judge Maidment

Date 16 February 2023