



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr R Chuhan

**Respondent:** Hermes Parcelnet Limited

**Heard at:** London South                      **On:** 17 December 2019

**Before:** Employment Judge Cheetham QC

## Representation

Claimant: in person

Respondent: Mr M Clayton (solicitor)

## JUDGMENT

1. The Claimant's application to amend his claim by adding a complaint that he was dismissed by reason of making a protected disclosure and removing a complaint of race discrimination is allowed.

## REASONS

1. This hearing was listed to consider the Claimant's application to amend his claim by adding a complaint that he was dismissed by reason of making a protected disclosure and removing a complaint of race discrimination.
2. The Claimant explained that, when he had completed his claim form, he had ticked the box for race discrimination, but had then received advice from the Citizen's Advice Bureau that the claim he had pleaded was really one of whistleblowing.
3. The Claimant's particulars of claim set out a chronology of events leading to his dismissal and we therefore went through the particulars carefully to see whether, in fact, the complaint did relate to protected disclosures. As Mr

Clayton realistically accepted, there were clearly matters pleaded that could amount to protected disclosures, although whether they actually do so will be a matter for the Tribunal at the final hearing.

4. By reference to the particulars of claim, there are 7 alleged protected disclosures, which I would summarise as follows (although the full text of the particulars of claim needs to be read in order to understand fully the alleged disclosures):
  - (1) Week 1: sending an email to management regarding the state of the traffic office; stating that the team needed to be more compliant and responsible for the business, as it was jeopardising the operator's licence.
  - (2) Week 3: speaking to and meeting with Simon Maylon (Outbound Process Manager) regarding claims of two warehouse staff stealing parcels, which was being orchestrated by the management.
  - (3) Week 4: raising with the finance supervisor the issue of a driver being instructed by Andy Pignatelli (Depot General Manager) to drive when unfit to do so.
  - (4) Week 5: raising issues with the head of security (Mr Warry) and Mr Maylon regarding security and health and safety issues not being observed.
  - (5) Week 6: a conversation with the finance supervisor about a driver who had not been paid.
  - (6) Week 7: discussing with Russell Jones (line manager) that staff were being given jobs they could not do and that vehicles were not in a safe state.
  - (7) Week 7: the incident regarding pallet boxes, where the Claimant spoke with the recruitment manager and subsequently viewed CCTV footage with Mr Maylon and Mr Savage.
5. Since these alleged disclosures are clearly set out within the particulars of claim, I allowed the application to amend. This is a case of a litigant in person setting out his claim with proper particulars, but simply using the wrong label.
6. These matters are capable of being protected disclosures falling within the Employment Rights Act 1996 s.43B(1)(a), (b) or (d). As noted above, it will be an issue for the final hearing whether they in fact amounted to qualifying disclosures and, if so, whether the reason for the Claimant's dismissal (or, if there was more than one reason, the principal reason) was that he made disclosures.

7. Having given judgment on the application to amend, I then went on to give directions for the final hearing, which are set out in a separate Order.

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Employment Judge Cheetham QC

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Date 2 January 2020