



EMPLOYMENT TRIBUNALS  
London Central Region

Heard by CVP on 12/1/2022

Claimant: Miss H Saroy

Respondents: 2030 Ltd (1)  
2030 Asset Management Ltd (2)

Before: Employment Judge Mr J S Burns  
Members: Ms C Marsters and Mr T Harrington Roberts

Representation

Claimant: Mr R Clement (Counsel)

Respondents: Mr T Sofinzon (Director)

JUDGMENT (unanimous)

1. To the extent necessary, the names of the First Respondent as set out above is substituted for the name "Robert Gaskell at 2030 Ltd" and the Second Respondent is joined.
2. The claims are struck out under Rule 37 (b), (c) and (e) in Schedule 1 of the 2013 procedural rules.

REASONS

For paragraph 1 of the judgment : as per paragraphs 3-6 of the case management record dated 2/3/2020.

For paragraph 2 of the judgment:

1. The relevant procedural history and background of this matter is recorded in paragraphs 1-8 of the judge's written observations following the hearing on 28/7/21. By the time of that hearing (which had been intended to be a FMH but which could not go ahead as such on that day) the Claimant had sent in to the Tribunal (but not, we find to the Respondents or their representative/s) a witness statement of hers and a bundle, both of which the judge suggested required revision before they were to be served for purposes of the relisted FMH. The judge ordered the parties to finalise the joint bundle and exchange any witness statements by 27 August 2021. The judge noted in paragraph 5 of her observations that save in exceptional and unforeseen circumstances the final hearing would take place on the relisted dates. The matter was accordingly relisted for three days before a full panel starting today.
2. The Claimant did not comply with the order to exchange her final witness statement by 27/8/21. Instead yesterday (11/1/22) the Claimant served for the first time on the Respondents' representative Mr Sofinzon a 56-paragraph, undated and unsigned witness statement for herself together with shorter witness statements from Ralph Regis, Lavinia Osbourne and Aysha Ali. The Claimant's witness statement is very long, not chronological, unclear as regards the proper issues in the case and inclusive of much contentious material which is of little or no relevance to the issues. The statement is cross-referenced to a supplementary bundle.
3. Mr Sofinzon objected to the admission of this new material none of which he said that he or his witnesses (Mr Gaskell and Mr Thornborough) had seen before yesterday.
4. Mr Clement submitted that according to his instructions the Respondents or their representatives had already been served with all this material by the time of the hearing on July 21 and so it was not new.

5. There being a dispute about this, we then heard evidence on oath today (limited to whether or not the Respondents had been previously served with this material, and whether the Claimant had complied with directions), from Mr Sofinson, Mr Gaskell and Mr Thornborough, all of whom denied having received or seen any witness statement from the Claimant before yesterday, and from the Claimant, and I allowed the Claimant time to forward to me emails in which she contended that she had sent her witness statement and bundle to the Respondent in July 2021. She forwarded me an email dated 27/7/21 at 18.61 to the Tribunal (but not to the Respondents or their representative/s) which attached an earlier version of her witness statement and another email dated 27/7/21 at 16.04 to Mr Thornborough, (a former employee of R1) which he did not receive because it was sent to a corporate email address which Mr Thornborough had ceased using 6 months before on 17/2/21 when he left R1's employ. The email to Mr Thornborough had forwarded to him emails the Claimants had sent to the tribunal earlier that day which confirm that by then witness statements had not been exchanged.
6. I have seen no objective evidence to support the Claimant's previous contention that Mr Sofinson has been deliberately or otherwise blocking her emails, and Mr Sofinson denied on oath that he had done so.
7. Having received all this evidence, I then allowed Mr Clement to make submissions. He suggested that nevertheless the trial should go ahead.
8. I am satisfied that the Claimant had not served any witness statement on the Respondents by 28/7/21, and that in any event even if she had, it was not the same witness statement as that which she is now seeking to rely on, which, contrary to the order of 28/7/21, should have been but was not served on the Respondents by no later than 27/8/21, but was instead together with her other statements served by her only yesterday.
9. Hence if the trial was to proceed today, or this week, the Respondents, who are not professionally legally represented, would be faced with trying to respond "on the hoof" to a significant volume of new contentious material. This would be unfair. It is therefore impossible now to have a fair trial. Given the procedural history of this matter it would be disproportionate to adjourn and as stated above Mr Clement did not submit that we should.
10. The Claimant has been assisted by Mr Clement since last year. She has accordingly not been simply a litigant in person. Her conduct of the litigation has been unreasonable and she has not complied with a tribunal order.
11. We discussed amongst ourselves whether we could find some half-way measure such as formally excluding the new material and allowing the Claimant without any witness statements to simply to confirm on oath limited aspects of her case, on the main issues, which are relatively narrow, and then tender herself for cross-examination. However, we concluded that if we embarked on that road we would inevitably be drawn as a matter of substance into consideration of the detailed new material and still end up conducting an unfair and unmanageable process.
12. We are aware that strike out is draconian but sometimes it is the only reasonable response. This is such a time.

J S Burns Employment Judge  
London Central  
12/1/22  
For Secretary of the Tribunals  
Date sent to parties : 12/01/2022

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