



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4106846/2023

5

Employment Judge P O'Donnell

Mr Shaun Goodfellow

Claimant

10 **Martin's Building Services**

Respondent

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Employment Tribunal is that the claim is struck out under Rule
15 37(1)(a) of the Tribunal Rules of Procedure as it has no reasonable prospects of
success.

REASONS

1. The claimant has brought a claim of unfair dismissal under s94 of the
Employment Rights Act 1996.
- 20 2. The claimant does not have the two years' service which is normally required
for the Tribunal to hear a claim of unfair dismissal in terms section 108(1) of
the Employment Rights Act 1996. Further, the ET1 does not plead a claim of
"automatic" unfair dismissal for which the two year rule is disapplied.
3. The Tribunal wrote to the claimant by letter dated 15 December 2023 warning
25 him that it was considering striking out the claim under Rule 37(1)(a) on the
basis that the claim had no reasonable prospects of success, specifically that
the Tribunal did not have jurisdiction to hear the claim in light of the fact that
the claimant did not have two years' service.
4. As required by Rule 37(2), the claimant was given the opportunity to object to
30 the claim being struck out and he set out his objections in an email dated 17

December 2023. This email states that the claimant wished to pursue his claim as he believes that his dismissal was unfair; he had been left with no job as a result of a matter that had nothing to do with him and without any warnings.

5 5. However, the merits of the claim are irrelevant to the reason why the claim has no merit. The problem for the claimant is more fundamental; the Tribunal does not have the legal power to hear the claim at all in circumstances where the claimant has less than 2 years' service with the respondent. Nothing said by the claimant addresses this issue at all; he does not seek to argue that he had two years' service nor does he seek to set out a claim of unfair dismissal for which the two year rule is disapplied.

6. In these circumstances, the claim has no reasonable prospects of success and it would not be in keeping with the interests of justice to put both parties to the time and expense of engaging in the Tribunal process when the claim would inevitably be struck-out.

7. The claim is, therefore, dismissed under Rule 37(1)(a) of the Rules of Procedure.

Employment Judge Peter O'Donnell
Employment Judge

3/1/24
Date

25 **Date sent to parties**

10/1/24