

THE INDUSTRIAL TRIBUNALS

CASE REF: 4156/19

CLAIMANT: Robert Montgomery

RESPONDENT: Huhtamaki (Lurgan) Limited

DECISION ON A PRE-HEARING REVIEW

The decision of the tribunal is that the claimant is granted leave to amend his claim by adding further matters as are set out below.

CONSTITUTION OF TRIBUNAL

Employment Judge (sitting alone): Employment Judge Greene

APPEARANCES:

The claimant was represented by Ms Christy Toman.

The respondent was represented by Ms Karen Moore of EEF Northern Ireland.

1. At a Case Management Discussion on 14 August 2019 I directed that a Pre-Hearing Review would convene to consider whether leave is granted to the claimant to amend his claim by adding further acts of alleged discrimination or factors which are relevant to the constructive dismissal claim.
2. The Pre-Hearing Review convened on 3 October 2019 to consider the following issue:

“Whether leave is given to the claimant to amend his claim by adding additional matters to his ET1 as are attached to the Notice of Hearing”.
3. The proposed amendment to Section 7.4 of the ET1 claim form comprised 14 paragraphs with a number of sub-paragraphs.
4. The Pre-Hearing Review issue was dealt with by submissions by both parties.
5. With the consent of the parties, paragraph 14 of the proposed amendment which dealt with remedy was removed from the amendment application as it was considered such was not necessary as it was open to the claimant to make such

claim as he considered appropriate in relation to his financial loss.

6. Paragraphs 1 to 6 inclusive in the new 7.4 of the ET1 were amended by consent.
7. Paragraphs 7 to 11, omitting the last sentence of paragraph 11 were amended by consent as background information.
8. Paragraphs 12(g) and (h) were amended by consent as they reproduce in substance the matters that are already in the claimant's original ET1. The respondent whilst agreeing to the amendment challenges the factual assertions therein.
9. The paragraphs in contention were paragraphs 12(a) to (f) inclusive, and paragraph 13(a) and (b).
10. On foot of the documents of record, additional information supplied by both parties and the submissions made, I was satisfied that all the proposed amendments that were in contention fell within the first category of amendments as set out in the decision of **Selkent Bus Company v Moore [1996] ICR 836** and therefore were not subject to scrutiny from the point of view of time-limits.
11. I was further satisfied that should the amendments not be permitted there would be considerable hardship to the claimant in making his claims for age discrimination and constructive dismissal and that there would not be significant hardship to the respondent in meeting these additional claims.
12. Accordingly, I grant leave to the claimant to amend his claim by adding additional matters to paragraph 7.4 of the ET1 as set out in the proposed amendment from paragraphs 1 to 13 inclusive.
13. The respondent will have 28 days from the date of issue of this decision to amend its response form.
14. A further Case Management Discussion will convene at **10.30 am on 15 November 2019** to give such Orders and Directions as are necessary to prepare this claim for hearing.

Employment Judge:

Date and place of hearing: 3 October 2019, Belfast.

Date decision recorded in register and issued to parties: