

FAIR EMPLOYMENT TRIBUNAL

CASE REF: 158/08 FET

CLAIMANT: Simon Irvine Hanna

RESPONDENT: Lisburn City Council

DECISION ON A PRE-HEARING REVIEW

The decision of the Tribunal is that all of the claimant's claims are struck out on the ground that they are misconceived.

Constitution of Tribunal:

Chairman (sitting alone): Mr P Buggy

Appearances:

The claimant did not appear, nor was he represented.

The respondent was represented by Mr K Denvir, Barrister-at-Law, instructed by Campbell Stafford, Solicitors.

Reasons

1. At the end of the hearing I issued my decision orally. At the same time, I gave oral reasons for that decision. Accordingly, the reasons set out below are provided in summary form only.
2. In these proceedings, the claimant claims that, because he is perceived to come from the Protestant community and/or because he is perceived to come from the broad 'unionist' community, he was unfairly excluded from the selection process in respect of a temporary vacancy which the Council had available in June 2008.
3. The claimant's statement of his case (as set out in the claim form), when viewed in context, can be summarised as follows:-
 - (1) At the relevant time, he was a member of staff of the Council who was eligible to participate in internal trawls.

- (2) In breach of that entitlement, he was not allowed to participate in the relevant trawl.
 - (3) The claimant believes that, on his demonstrated merits, he was better qualified for the post than the successful candidate.
 - (4) The claimant believes, and other members of staff of the Council believe, that he was 'not wanted' because of his community background and/or because of a former occupation which he had held.
4. In my view, the case, as pleaded, has no reasonable prospects of success, even if all of the factual contentions (as listed at paragraph 3 above) are correct. Protestants are a protected class for the purpose of the Fair Employment and Treatment (Northern Ireland) Order 1998 ('the Order'). However, a claimant will not succeed in a recruitment discrimination claim under the Order merely because he is a member of a relevant protected class who has been (as the claimant contends he has been) unfairly treated in relation to a recruitment process. Furthermore, the Order protects individuals only in respect of discrimination on the ground of religious belief or political opinion; former members of particular occupations are not, in that capacity, protected under the Order.
5. The Council had previously given notice that it was making applications for costs against the claimant in respect of his non-attendance at various Case Management Discussions. At the conclusion of this pre-hearing review, Mr Denvir told me that the Council was not pursuing those applications for costs.

Chairman:

Date and place of hearing: 5 August 2009, Belfast

Date decision recorded in register and issued to parties: