



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr A Deacon

v

Bradford Metropolitan District Council

Heard at: Leeds

On: 06 March 2017

Before: Employment Judge Lancaster

Appearance:

For the Claimant: In Person

For the Respondent: Miss L Bailey, Solicitor

JUDGMENT having been sent to the parties on 9 March 2017 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

1. I clarified at the start of this Hearing that this was an 'open' preliminary hearing and not a private matter. That is because, in addition to seeking to identify the issues in the case and make appropriate case management orders, by letter dated 14 February this year sent on my instruction, it was also identified that there were preliminary issues that could be decided at this Hearing. Those are in relation to whether any part of the claim is out of time. That is in respect of a claim for unlawful deduction from wages or for discrimination because of disability.

2. I shall deal firstly with the unlawful deduction for wages claim. In the course of a somewhat lengthy discussion we have identified that there are two potential claims which Mr Deacon would wish to bring. The first is in relation to a period from 14 September 2015 until 30 September that same year, or at the latest, on Mr Deacon's account, 22nd November 2015 when he says that he continued to receive sick pay only but was fit to return to work and should therefore have been paid his full salary rather than remaining on sick pay. But that is the only identified period where there is an allegation of being paid less than he ought to have been paid in relation to any period of sickness absence.

3. That claim is substantially out of time. There is a three month time limit. Any claim, even if it related to the later date in November 2015 should therefore (subject to any extensions of time) have been brought by 21st February 2016. That did not

happen. ACAS early conciliation commenced on 12th November 2016, at least nearly a year after the events in question, and the ET1 was presented on 11th January 2017

4. It is only if it was not reasonably practicable to have brought the claim within time that I can consider extending that period. There is no proper basis advanced as to why it was not reasonably practicable. The explanation proffered is that Mr Deacon was concerned, not only about the cost of Tribunal proceedings but also the implications of his instituting a claim against his current employer, particularly at a point where he considered he may also have other claims. He has however now brought the claim and it would have been practicable for him to have done so at any earlier point. It is simply therefore that he decided to delay doing for a period and in the meantime the time limits expired

5. He also alleges that from October 2015 he was told by the Respondent that his concerns about his underpayment of wages would be dealt with. Even if that were correct it does not make it impracticable for him to have brought a tribunal claim to enforce his perceived rights. In any event it must have become apparent well before the last date for bringing this present claim expired (which would have been 13th August 2016) that these alleged concerns were not going to be addressed to his satisfaction. He did not bring a claim to the tribunal within three months, there is no reason of impracticability as to why he did not do so. So that part of the claim I do therefore dismiss as being out of time.

6. The further claim of unlawful deductions is in respect of an alleged series of deductions and may be in time. Similarly the allegations of disability discrimination, although still not entirely clear may possibly be part of a series of acts extending over a period. These claims are not therefore struck out but the material issues in relation to them are addressed in the reasons for the making of a deposit order.

Employment Judge Lancaster

Date: 24 March 2017

Sent on: 28 March 2017