



EMPLOYMENT TRIBUNALS

Claimant: Miss S Quaddus

Respondent: Ikea Ltd

HEARD AT: Huntingdon **ON:** 20 June 2017

Before: Employment Judge D Moore

Representation:

For the Claimant: Mr K Rowley

For the Respondent: Mr G Griffiths-Jones

PRELIMINARY HEARING JUDGMENT

1. The Claimant has insufficient service to bring a claim of unfair dismissal and it is dismissed.
2. The Claim form does plead facts consistent with a claim that the Claimant's dismissal was an act of Direct Discrimination

REASONS

1. At my invitation Mr Griffiths Jones requests written reasons since they are a convenient mechanism by which to record the issues in the case as found today.
2. The Complaint of Unfair Dismissal. At the time of her dismissal the Claimant had been employed by the respondent for a little over 4 months. S:108 of the Employment Rights Act 1996 provides that a Tribunal shall not consider a claim of unfair dismissal unless the claimant had, at the time of the dismissal, two years continuous employment with the Respondent. She had not and therefore this Tribunal does not have jurisdiction to consider this complaint.

3. The dispute of Disability Discrimination: The Respondent contended that there was no such claim raised in the Claim form. It is my task to address this question by construing the claim form as a whole. It is by long established practice the case that it is not necessary to 'plead' law but that facts should be pleaded. The position is explained in Badra v Gardiner and Theobald LLP EAT 0191/10 which refers to the necessity to refer to facts from which a (particular) claim could reasonably and objectively be discerned.
4. The Respondent rightly refers to the fact that in S:8.1 of the Claim form there is no indication of a claim of disability discrimination and that in Section 12 of the form (which is the opportunity for a Claimant to state if they need the tribunal to take measures to address problems relating to a disability) the Claimant has ticked the box indicating that she is not disabled. It is right that the particulars at Section 8.2 are easily read as being consistent with the Claimant's mistaken view that she could pursue a complaint of unfair dismissal.
5. However those same particulars (which are reinforced by the entry in S:9 of the form) do state that the detriment suffered was dismissal and do allege that the reason for the dismissal was because of the Claimants condition / health. The Respondent cannot be criticised for seeking to have the point determined but on balance I am persuaded that facts consistent with a claim that the Claimant's dismissal was an act of direct discrimination are within the particulars of claim.
6. Disability under the act is not admitted and it would appear from her comments that the Claimant was not familiar with the dictates of S:6 of the Equality Act 2010. I have listed this question to be determined at a further preliminary hearing and the orders that I have made relate only to that preliminary hearing.

 Employment Judge D Moore

Dated: 22 June 2017 _____

JUDGMENT & REASONS SENT TO THE PARTIES ON

 FOR THE TRIBUNAL OFFICE