



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr M B Islam

**Respondent:** Tesco Stores Ltd

## JUDGMENT

The claimant's application dated 7 July 2017 for reconsideration of the judgment sent to the parties on 28 June 2017 is refused.

## REASONS

1. There is no reasonable prospect of the original decision being varied or revoked, for the reasons set out below.
2. Both claims were struck out as being out of time.
3. At the preliminary hearing on 28 June 2017 the Claimant did not provide an explanation as to why he did not file his claim until 27 January 2017 following advice to do so by 25 October 2016 and further advice from Tower Hamlets Law Centre in December. The claims were struck out by Employment Judge Lewzey. Since she has now retired this decision has been made by Employment Judge Wade.
4. On 7 July, the Claimant emailed the Tribunal asking for reconsideration and explaining that he had been "seriously sick and taking treatment in hospital". He says this prevented him from communicating and thus from filing his ET1. I do not consider that this is a ground to reconsider the decision because:
  1. This explanation was not alluded to at all at the hearing, an inexplicable omission if it is correct.
  2. His email discloses that the treatment was confined to CBT and talking therapies. Sadly, many litigants are receiving therapy and it cannot be said that the Claimant suffered from an illness that was so serious it

prevented him from completing the relatively simple steps required to file an ET1. There is no evidence of his having tried and failed sooner.

3. He had the support of family members throughout this time.
4. He was treated between 31 August 2016 and 12 January 2105 and during that time he was able to obtain legal advice from at least two sources so he was not fully unable to communicate.
5. He did not file the claim for 15 days after the treatment ended.
6. No medical evidence has been provided.

The above will sound harsh to the Claimant but the time limits are strict and the Claimant's ill health, even if authenticated by medical evidence, would not be enough to show that it was not reasonably practicable to file the ET1.

5. As Employment Judge Lewzey said, the time limit for a discrimination claim can only be extended if it is just and equitable to do so and this is not done as a matter of course. The Claimant provided more information about his race discrimination claim but no explanation for why Mr Wright would prefer his Sri Lankan colleagues. He explains why the Sri Lankan colleagues were likely to support one another but not why their manager, Mr Wright, would prefer them to the Claimant for discriminatory reasons. On the face of it the ET1 and subsequent correspondence do not provide details of a case which would lead me to think that it would be right to reconsider on the basis that it might be just and equitable to extend time. On the contrary, the core of this case is an unfair dismissal claim and I have explained why the time limit decision on that will not be revisited.

Employment Judge Wade  
17 August 2017