



THE EMPLOYMENT TRIBUNALS

Between:

Claimant: Miss D-E Antonescu

Respondent: Royal Borough of Greenwich

Hearing at London South on 1 December 2017 before Employment Judge Baron

Appearances

For Claimant: The Claimant was present in person

For Respondent: Tamar Burton - Counsel

JUDGMENT AT A HEARING FOR RECONSIDERATION OF A JUDGMENT DATED 15 MAY 2017

It is the judgment of the Tribunal that the judgment dated 15 May 2017 a copy of which was sent to the parties on 22 May 2017 be confirmed and the claims remain dismissed.

REASONS

- 1 This was a hearing to reconsider the judgment I made at a preliminary hearing on 15 May 2017 which the Claimant did not attend. The Claimant lives in Romania and this hearing was held by telephone. The circumstances in which this hearing arose are set out below.
- 2 On 13 March 2017 the Claimant presented a claim form ET1 to the Tribunal. She named one respondent as 'Greenwich Royal Borough – Payroll and Pensions' and provided an ACAS early conciliation certificate number in respect of that respondent. The Claimant also named 'Teacher Pensions' and 'DFE – Dept for Education' as additional respondents, but without providing ACAS certificate numbers.
- 3 In section 4.1 of the claim form the Claimant stated the following:

Greenwich . . . was my employer but TPS and DFE the other Respondents are making false claims about my pension and have also destroyed documents' HMRC claim not to have all my employment details and National Insurance Contributions because former employer Greenwich authority did not send them.
- 4 The claims against the respondents other than the Royal Borough of Greenwich were rejected by because of the absence of ACAS certificates.
- 5 In section 8.1 of the claim form the Claimant ticked the relevant boxes to indicate that she was making a claim of disability discrimination. No details of the alleged disability, nor the alleged discriminatory treatment, were set out save for the Claimant saying that she was injured in 2001,

2008, 2011 and 2012. The Claimant also stated that she was making a claim in respect of her pension and set out the following in the space provided for a claimant to give details of other types of claim:

1 Greenwich Borough has destroyed all my records of the work I did from 1991 to 1998 when I was employed by Greenwich LEA authority as a teacher.

2 HMRC claim not to have all records of my National Insurance Contributions directly deducted from my payslips from Greenwich because Greenwich did not send them.

3 Greenwich claim I won't get a pension but I worked every day and many years full-time pensionable service.

4 I provided evidence of this from official documents which Greenwich refuses to acknowledge or add to my file.

- 6 The Claimant added in section 15 of the form that she had become aware in 2015 that her records had been destroyed by Royal Borough of Greenwich on a move of offices, and she also said that the Council had refused to respond to letters. Attached to the claim form were over 50 pages of documents. Some of these related to difficulties which the Claimant had had with HM Courts & Tribunals Service in successfully presenting this claim. Most consisted of correspondence with the Respondent, and also with the Department for Education and others, including the Parliamentary Ombudsman. The Claimant has since provided a variety of other documents.
- 7 The Respondent presented a response. It was stated that the Claimant was employed by the Respondent from 1991 to 1998 on a supply basis apart from a short period in 1993. The Respondent said that it appeared that the Claimant was alleging that it had not paid National Insurance Contributions to HMRC, and it maintained that the Tribunal did not have any jurisdiction in that respect. Further, it was said that there was no *prima facie* complaint of disability discrimination. It applied for the claims to be struck out under rules 27 or 37 of the Employment Tribunals Rules of Procedure 2013, and also said that the claims had been made outside of the statutory time limit.
- 8 One of the various miscellaneous documents sent to the Tribunal from time to time by the Claimant was what appears to be a summary statement provided by the Teachers' Pension Fund. That shows the Claimant as having been employed by the Respondent from 1 April to 31 August 1993. That ties in with the statement in the ET3 response that the Claimant worked for the Respondent on a supply basis apart from the period from March to August 1993 when she was employed on a fixed term contract.
- 9 A notice of a preliminary hearing to be held on 12 May 2017 was issued at the same as the claim was served on the Respondent. The purpose was to consider case management issues. Following receipt of the response form an Employment Judge gave notice to the parties that at the hearing the Tribunal would consider whether it had the jurisdiction to determine the claims made by the Tribunal taking into account the statutory time limit. The Claimant did not attend that hearing and I gave judgment dismissing the claims. Reasons for that judgment were provided. I also referred to applications which the Claimant had made for a postponement, which I will not repeat here.

- 10 Various documents were received from the Claimant after the hearing and it is difficult to tell from the Tribunal file when each was received. Included were letters from the Claimant referring to recent injuries to her foot and hand, and being unable to travel. I considered that in all the circumstances it would be in accordance with the overriding objective of the Tribunal to deal with matters justly if there were to be this hearing to reconsider the judgment made at the hearing on 12 May 2017 and consider other matters. The notice of hearing stated that the purposes of this hearing were to be as follows:
- 1 To ascertain exactly what claims the Claimant seeks to bring against the Respondent, and on what date(s) the Claimant says that the right to bring a claim arose.
 - 2 To consider the Claimant's application for a reconsideration and revocation of the judgment dated 15 May 2017 which dismissed the claim as having been presented out of time.
 - 3 If the judge considers it appropriate, to consider the striking out of the claim on the ground that it has no reasonable prospect of success.
- 11 Both parties attended this hearing by telephone. Despite some technological difficulties I am satisfied that it was possible to hold a fair hearing, although it is necessarily not as satisfactory as holding a hearing with the parties or their representatives attending in person. The principal conversation was between the Claimant and me. I enquired of Miss Burton from time to time whether she understood what the Claimant was saying, and she confirmed that she had done so.
- 12 I first sought to ascertain from the Claimant the fundamental aspects of her claim in connection with the pension issue. She said that in February 2016 she had discovered that occupational pension contributions and also National Insurance Contributions which had been deducted from her salary had not been paid over to the Teachers' Pension Fund or HMRC as the case may be. I was not able to ascertain any further details but I do not consider it necessary to do so.
- 13 The Claimant also said that she had been advised by the Tribunal office in Leicester that the time limit for the presentation of a claim was three years, rather than three months. I cannot accept that that was the advice which was given, but in the end the point is not material to the outcome. I am not therefore setting out other information provided by the Claimant as to issues with the ACAS early conciliation scheme.
- 14 The Tribunal does not have a general jurisdiction to resolve all difficulties which may arise as a consequence of employment or other relationship relating to work. The Tribunal must have been provided with such jurisdiction by statute or secondary legislation. The complaints that deductions which the Claimant said had been made from her pay had not been paid over to the Teachers' Pension Fund and/or HMRC are matters over which the Tribunal does not have any jurisdiction. There is no prospect of success in such claims. Similarly, the complaint that the Respondent had destroyed records held by the Respondent is not a complaint which is justiciable before the Tribunal.

- 15 I emphasise to the Claimant that I am not making any decision as to whether or not she is entitled to a greater occupational or State pension than that which she is at present receiving, or which she has been told she will receive. The position is simply that these matters over which I have no jurisdiction. Any such issues have to be pursued through other channels.
- 16 The Claimant raised the question of adding HMRC, the Teachers' Pension Fund, the Department of Education, the Department for Work and Pensions and the Pension Advisory Service as additional respondents as she had obtained an ACAS early conciliation in respect of each of them. I had considered that matter at the hearing on 12 May 2017 and refused the application on the ground that the Tribunal does not have any jurisdiction over those bodies in respect of the pensions issue which troubles the Claimant. I was not prepared to reconsider that decision.
- 17 I sought to ascertain from the Claimant what the issues were under the head of disability discrimination. The Claimant said that her complaints were under two headings. The first related to pregnancy complications in 1994 when, she said, she was not allowed time off. The second was that when she was working for it the Respondent did not take any notice of her requirement to have documents provided to her in large print. The Claimant said that she had decided at the time not to pursue the matter in court, and that she would let it go.
- 18 Miss Burton said that these were entirely new factual allegations which related to the time over 20 years ago when the Claimant was working for the Respondent, and no mention had been made of them in the ET1, nor in the documents sent with it. As far as I can see the Claimant simply alleged that the Respondent had 'disrespected' her disability. Miss Burton said that an amendment to the claim would be required for which the Claimant would have to apply for leave.
- 19 The position is this. The Claimant had ticked the box to indicate that she wished to bring a claim of disability discrimination. No details were provided. It is possible in such circumstances for a claimant to fill in the details of such allegation later in the proceedings. However I conclude that the claims which the Claimant now seeks to bring under this head should be struck out as having no reasonable prospect of success. It is fanciful to conclude that a tribunal would decide it had jurisdiction in respect of such claims brought some 20 years or so after any cause of action had arisen in circumstances where the Claimant had stated that she had specifically decided not to pursue the matter at the time.

Employment Judge Baron

Dated 05 December 2017