



EMPLOYMENT TRIBUNALS

Claimant: Mr N Moyo

Respondent: The Commissioner or HM Revenue and Customs

HELD AT: Manchester

ON: 31st August 2018

BEFORE: Employment Judge T Vincent Ryan

REPRESENTATION:

Claimant: absent – unexplained and unexcused.

Respondent: Mr S Lewis, Counsel

JUDGMENT

The judgment of the Tribunal is that:

1. The claimant's claims of race discrimination and disability discrimination were presented to the tribunal out of time in circumstances when it would not be just and equitable to extend time to the date of actual presentation of the claimant's claim. The Tribunal does not have jurisdiction to consider these claims and they are dismissed.
2. The claimant's claims that he was unfairly dismissed and that he is entitled to a statutory redundancy payment from the respondent were presented to the tribunal out of time in circumstances where it was reasonably practicable for them to have been presented in time. The tribunal does not have jurisdiction to consider these claims and they are dismissed.
3. All other, if any, claims presented to the tribunal by the claimant on 14 February 2018 relating to his employment by the respondent are out of time and are dismissed as the tribunal does not have jurisdiction.

REASONS

1. The claimant was dismissed by the respondent on 18 March 2016 such that the primary time limit applicable in respect early conciliation and, subject thereto, the presentation of the tribunal claim expired on 17 June 2016. The claimant entered early conciliation on 10 January 2018 and an early conciliation certificate was issued on 18 January 2018. The claimant presented his claim to the tribunal on 14 February 2018.
2. At a preliminary hearing on 23rd April 2018 Employment Judge Humble ordered the parties to make disclosure of evidence in respect of the time issues and he listed this preliminary hearing to consider the time issues facing the claimant. Counsel for the respondent confirmed that the claimant liaised with the respondent over the preparation of a trial bundle. An order was also made that the claimant would provide to the respondent a witness statement outlining the reasons upon which he relied in support of his contention that his claim should not be struck out; this was to be done by 27 July 2018. Judge Humble explained that in his witness statement the claimant should explain in full the reasons for his delay in not submitting the claim form prior to 14th February 2018 giving full details of his medical condition and any other matters upon which he sought to rely. The claimant has failed to provide the respondent or indeed the tribunal with such a statement. He breached the case management order relating to his witness statement.
3. I note from the claimant's ET 1 claim form that he successfully secured alternative employment in October 2017.
4. The claimant did not attend the tribunal this morning despite having received notice of the hearing and its agenda in the minutes of the preliminary hearing of 23 April 2018, as set out in case management orders contained therein, sent to him on 22 May 2018. The claimant did not contact the respondent to explain that he would not be attending. The claimant did not contact the tribunal to explain or excuse his absence. In all the circumstances it is unclear whether he wishes to actively pursue his claim in any event.
5. Counsel for the respondent provided written submissions in support of the respondent's application for dismissal of all the claimant claims. He addressed me on those submissions. I found them persuasive. A copy was available for the claimant, had he attended, but he did not receive an advance copy.
6. The claimant's claims were presented to the tribunal some 20 months late. The claimant has failed to adduce evidence to the tribunal as to the reason or reasons for his delay. The claimant is in breach of an applicable case management order; there is a doubt as to whether he wishes to pursue his claim.
7. In all the circumstances I could not find that it would be just and equitable to extend the time limits for the presentation of his discrimination claims. There is nothing before me to suggest that it was not reasonably practicable for the

claimant to present his unfair dismissal and redundancy payment claims in good time.

8. POSTSCRIPT: Having completed the hearing and preparation of the above judgment and Reasons (which had been drafted and typed up to paragraph 7 above), the claimant attended at the tribunal at 11 a.m., one hour late for the hearing. Counsel had long gone from the tribunal. The clerk was asked to explain to the claimant that the claims had been dismissed and that written reasons would be sent to him with the appropriate notices; the claimant was then turned away. For completeness I confirm that I had delayed the start of the hearing from 10:00 a.m until 10:15 a.m. to allow time for the claimant to arrive just in case he had been delayed by traffic or something of that nature.

Employment Judge T. Vincent Ryan

Date: 31.08.18

JUDGMENT SENT TO THE PARTIES ON

19 September 2018

FOR THE TRIBUNAL OFFICE

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.