



EMPLOYMENT TRIBUNALS

Claimant: Mr A Iqbal

Respondent: G4S Secure Solutions (UK) Ltd

PRELIMINARY HEARING

Heard at: London Central

On: 3 October 2018

Before: Employment Judge H Grewal

Representation

Claimant: In Person

Respondent: Mr R Whetnall, Solicitor

JUDGMENT

1 The Tribunal does not have jurisdiction to consider the complaint of unfair dismissal.

2 The Tribunal does not have jurisdiction to consider the complaint of race discrimination.

3 The application to strike out, or make a deposit order in respect of, the complaint of unauthorised deductions from wages is refused. That claim will be heard by an Employment Judge on **14 November 2018** at a time to be notified to the parties.

REASONS

1 It was not in dispute that the Claimant's employment began on 6 March 2017 and terminated on 12 March 2018. Section 108(1) of the Employment Rights Act 1996 ("ERA 1996") provides that the right not to be unfairly dismissed does not apply to the dismissal of an employee unless he has been continuously employed for a period of not less than two years ending with the effective date of termination. Section 108(3)

sets out the circumstances in which section 108(1) does not apply. There was nothing in the Claimant's particulars of claim or in the reasons he gave when I asked him why his claim should be allowed to proceed to indicate that his case fell within section 108(3).

2 The Claimant confirmed at the hearing today that he was complaining of race discrimination only in respect of the comments made by Abdul Alim on 5 August 2017. Section 123(1) of the Equality Act 2010 provides that proceedings on a complaint of race discrimination may not be brought after the end of the period of three months starting with the date to which the complaint relates or such other period as the employment tribunal thinks just and equitable. The claim in this case was presented on 7 June 2018, some ten months after the alleged act of race discrimination. There was no satisfactory explanation from the Claimant as to why the complaint had not been made earlier. He believed that he had been subjected to race discrimination at the time and complained of it to his employer. He chose not to pursue it any further at that stage. I did not consider it just and equitable for the claim to have been brought ten months after the alleged act of race discrimination. There was no reason why it could not have been brought within three months of the incident.

3 It was not in dispute that the Claimant had not been paid while he was absent sick from 4 January to 12 March 2018. The Claimant's contract set out his obligations if he was absent sick. I did not have sight of any company policy that set out the circumstances in which sick pay would not be paid. There was also a factual dispute as to whether the Claimant had provided the Respondent with medical certificates, although the preponderance of contemporaneous documentary evidence from the Respondent indicated that he had not. In those circumstances, I was not prepared to strike out that claim. I considered making a deposit order but decided against it because of the Claimant's very limited means and the fact that a short simple hearing would dispose of the matter.

Employment Judge Grewal

Date 3 October 2018

JUDGMENT & REASONS SENT TO THE PARTIES ON

4 October 2018

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FOR THE TRIBUNAL OFFICE