



# EMPLOYMENT TRIBUNALS

Claimant: Mr C Tchapdeu

Respondent: Unipart Group Limited

Heard at: Leicester On: Friday 18 August 2017

Before: Employment Judge Blackwell (sitting alone)

Representatives

Claimant: Mr R Ibakakombo, Lay Representative Respondent: Mr S Willey, Solicitor

## JUDGMENT

### Introduction

1. The applications to amend submitted on the Claimant's behalf on 3 and 27 July are permitted there being no objection by the Respondent. The disabled person is the Claimant's wife and she is alleged to have been disabled since 2015.

2. The only allegations which are permitted to proceed are those relating to the Claimant's assertions that he was refused flexible working hours and to the associated grievance procedures. It will however be for the full Tribunal to determine whether the allegations permitted to proceed are continuing acts. Therefore all other allegations are struck out.

## REASONS

### Background

1. It is clear from the Claimant's claim form that the only pleaded matters which are in time commence with the act complained of on 29 September 2016.

2. The relevant statutory provision since all these claims are brought under the Equality Act is Section 123. Thus by virtue of sub section (3) either I have to be convinced that it is arguable that there is conduct extending over a period so that it can be treated as done at the end of that period or in the alternative under sub section (1) I have the discretion to permit otherwise out of time claims if it would be just and equitable so to do.

3. It seems to me that on the Claimant's pleaded case his Scott Schedule and his evidence today, the only discernable allegation which could

be regarded as conduct extending over a period is the allegation that he was on a number of times refused flexible working hours. Associated with that allegation and which could also said to be extending over a period is his allegation that the grievance processes associated with his complaints concerning the refusal of flexible working are also capable of being regarded as conduct extending over a period.

4. I emphasise however that I am not deciding that point. I am simply permitting that argument to be advanced in front of a full Tribunal. That means that all of the other claims in the claim form and the Scott Schedule would otherwise be struck out unless it would be just and equitable to allow them to proceed

5. As both advocates agree it is only in exceptional cases that the discretion will be exercised in favour of the Claimant. Mr Tchapdeu in his evidence advanced two reasons the first being that he could not afford to bring the claim any earlier than he did because of the fees which he would be required to pay. I do not find the Claimant's evidence on this point credible. Some of the allegations predate the fee regime. Further when he brought this claim it seems to me that he was in a worse financial position than previously when he had been in work. He explained that he was expecting to be reimbursed his fees but did not in fact achieve that because he did not respond in time to the question raised. He did not however explain why that remission would not have occurred earlier.

6. The second reason advanced was that he wished to give the Respondent's an opportunity to repent their sins and cease to act in an institutionally racist manner. Again I do not find this a credible explanation. On the Claimant's case he has been subjected to less favourable treatment on the ground of his race since at least 2011. His case remains that the Respondent's are institutionally racist. I therefore do not find that reason to be a credible one to put in the balance. That is therefore why all claims prior to the first event of refusal of flexible working in January 2015 are to be struck out.

Employment Judge Blackwell

Date 13/9/17

SENT TO THE PARTIES ON

13/9/17

FOR THE TRIBUNAL OFFICE