



EMPLOYMENT TRIBUNALS

Claimant: Mr Ferguson
Respondent: Bristol City Council
Heard at: Bristol **On:** 6 August 2018
Before: Employment Judge R Harper sitting alone

Representation
Claimant: Did not appear
Respondent: Mr Small, Counsel

JUDGMENT

1. The tribunal does not have jurisdiction to hear the claim as it was filed late and it is not just and equitable to extend the time for the presentation of it.

REASONS

1. The ET1 in this case was filed on 11 February 2018. The case had been referred to ACAS on 18 December 2017 and the ACAS Certificate was issued on 10 January 2018.
2. Today's hearing had been notified to the parties on 23 May 2018. By an email sent on Saturday 4 August 2018 at 9:16 the claimant indicated "due to the recent death of my father and dealing with the funeral arrangements I would like to postpone the hearing until the next available date".
3. Today's hearing is Monday 6 August 2018. This email from the claimant was not seen by the Tribunal until this morning and as a result a response was received from the respondent saying that whilst they had sympathy with his circumstances the claimant had advised the respondent about the bereavement on 5 July 2018. Mr Small told me further details about that and I am satisfied that the claimant's father died on or before the 5 July 2018.
4. The claimant was notified that his application to postpone the hearing was refused. He indicated that he would not be attending and he sent a further

email on 6 August three minutes before the hearing was due to start making very clear that “I won’t be there”.

5. In this case the claimant clearly knows about the hearing. He gave the impression to the Tribunal in his email dated 4 August that his father had just died when that is clearly not the case. The application to postpone is not in accordance with the Presidential Guidance in that no documentary evidence has been produced in support of his application to postpone and I reiterate that his application to postpone is refused and I directed that the case proceed.
6. The case had been listed upon the respondent’s application to have the claim “struck out” because the claims were not filed in time and the matter came before acting Regional Employment Judge Holmes on 25 April 2018 and he directed that this hearing be set down.
7. The claimant’s original claim form only had one date in it. As a result of enquiries the claimant supplied further information stating that alleged discriminatory action took place on the 21 September 2017 and the 2 October 2017. He referred however to a date of 15 December 2017 in fact this should be 18 December 2017 and it refers to a report from the Safer Bristol Partnership which is an Organisation distinct from the respondent into the death of a man called Bejan Ibrahimi. The claimant says that this was a finding that the Bristol City Council was institutionally racist and that this was a finding by a court of law. This is not a finding by a court of law and therefore that undermines the claimant’s assertion in this regard.
8. I am quite satisfied having read the submissions of Mr Small that it is quite right to say that the date of the last act complained of is 21 September 2017. Having regard to section 123 (1) (a) of the Equality Act 2010. The time limit expired on the 21 December 2017 and therefore the claim being filed in February 2018 is substantially out of time. It is of significance to note that the claimant has not advanced any reasons at all why it was not possible to have filed the claim in time and therefore the Tribunal does not have any evidence before it to consider whether it should grant an extension for the filing of the claim under the principle of just and equitable.
9. It is incumbent upon claimants wherever possible to make their application in time. There is nothing to suggest that it could not have been made in time and therefore I rule that the Tribunal does not have jurisdiction to deal with the claim which in net effect terms means that the claim does not proceed any further.

Employment Judge R Harper

Date 24th September 2018

JUDGMENT & REASONS SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE