



THE EMPLOYMENT TRIBUNALS

BETWEEN

Mr Orhanveli Celebi

Claimant

and

Jeton Venture Limited

Respondent

Record of Discussion and Directions given on Preliminary Hearing (Case Management)

HELD AT: London Central

ON: 11 February 2019

EMPLOYMENT JUDGE: Mr Paul Stewart

MEMBERS: sitting alone

Appearances:

For Claimant: in person

For Respondent: did not appear and was not represented

JUDGMENT

The Claimant has failed to satisfy me that it was not reasonably practicable for him to have presented his claim to the Employment Tribunal within the period of three months beginning with the effective date of termination as extended by the requirements relating to early conciliation. In consequence, the Tribunal does not have jurisdiction to deal with his complaint of unfair dismissal effected because the Claimant was asserting statutory rights.

REASONS

1. The Claimant worked for the Respondent as a Customer Service Representative from 27 February 2017 until he was dismissed on 31 January 2018. He claims he was dismissed because, as he puts it in his ET1, he was “asserting [*statutory*] rights to take a holiday within the 28 days holiday entitlement.”
2. As indicated, the effective date of termination was 31 January 2018. The ET1 was not presented until 25 July 2018. The Claimant had first contacted ACAS for the purposes of early conciliation on 31 March 2018 and, on 30 April 2018 obtained from ACAS their certificate dated 24 April 2018 that the prospective claimant had complied with the requirement under ETA 1996 s.18A to contact ACAS before instituting proceedings in the Employment Tribunal. Without the provisions

requiring a prospective claimant to contact ACAS for the purposes of early conciliation, the ET1 should have been presented to the Employment Tribunal within a period of three months beginning with the effective date of termination. In this case, that would have meant on or before 30 April 2018.

3. As it is, the period between the 31 March 2018 and 24 April 2018 is discounted thereby extending the period within which the complaint must be presented to the Employment Tribunal to 25 May 2018. The ET1 was presented on 25 July 2018, therefore two months out of time.
4. The Claimant, anticipating this difficulty, explained on his ET1 form:

I have been depressed and had anxiety since the immediate dismissal and have received treatment. This [is] the reason why I couldn't submit the Employment Tribunal claim form within the 3 months period.

I have filed an ACAS reconciliation within the 3 months period and opened employment tribunal claim online within the 3 months period. I have evidence to support this.
5. The Claimant gave evidence. He explained that, in March, he had researched online and obtained from the government website that, before commencing proceedings in the Employment Tribunal, he had to approach ACAS and this he did on 31 March 2018. He also contacted three firms of solicitors. The first was Landau Law. The other two firms were Redmans and Michael Lewin. He did not get satisfactory responses from any of them. He supposes that the lack of response from those two related to him being unable to instruct other than on a no win no fee basis.
6. In October, well after having finally submitted his ET1, he contacted Citizen's Advice. He could not explain why he had not contacted them earlier in the aftermath of his dismissal.
7. The Claimant had received treatment for his anxiety. He had had an initial assessment on 1 March 2018 and then had been referred to Ms Charlotte Rice, who was a trainee psychological wellbeing practitioner and a member of his area's IAPT team, that being Improving Access to Psychological Therapies. He had six sessions with Ms Rice after that initial assessment before, on 3 July 2018, he was discharged. The reason for his discharge was that questionnaires showed that his levels of anxiety and depression had dropped from "moderate" to "mild".
8. Given that his anxiety and depression had not prevented him from making contact with three firms of solicitors in March, nor from researching online to find out about Early Conciliation, I found it difficult to accept that his illness could have been instrumental in preventing him from finding out either that there was a three month time limit or that the requirement on him to contact ACAS for Early Conciliation brought with it an extension to the three month period.
9. And, if I was underestimating the effects of his illness in March, it was clear to me that the symptoms of his illness changed from being classified as "moderate" to "mild", an improvement that justified Ms Rice in discharging him on 3 July 2018 when he still had over three weeks left within which to present his claim to the Employment Tribunal.

10. Thus I did not consider it just and equitable to extend with period within which he was required to present his complaint to the Employment Tribunal. In consequence, the Employment Tribunal lacks jurisdiction to progress his claim which must be dismissed.

Signed:

Paul Stewart

EMPLOYMENT JUDGE

On:

18 February 2019

DECISION SENT TO THE PARTIES ON

20 February 2019

FOR SECRETARY OF THE TRIBUNALS