



EMPLOYMENT TRIBUNALS

Claimant:
Mr MS Ashraf

v

Respondents:
Mr M Fazal (1)
Mr Jamil Ahmed (2)

Heard at: Reading

On: 14 March 2019

Before: Employment Judge Hawksworth (sitting alone)

Appearances

For the Claimant: No attendance and no representation

For the Respondent: No attendance and no representation

JUDGMENT

The tribunal does not have jurisdiction to hear the Claimant's claims and the Claimant's claims are dismissed.

REASONS

1. There was no attendance or representation by or on behalf of the Claimant. The Claimant does not live in the UK. A letter from the Claimant received by the tribunal on 2 July 2018 explained that he did not propose to attend the hearing. He asked for his claim to be decided on the basis of the documents submitted by him.
2. There was also no attendance or representation by or for the Respondents. The clerks were unable to contact anyone on 13 March 2019 when they telephoned to confirm attendance.
3. I considered rule 47 regarding non-attendance by the parties. I decided that it was appropriate to proceed with the hearing in the absence of the parties, in particular, in the light of the Claimant's request for his claim to be determined in his absence.
4. The Claimant worked for the Respondents as a domestic worker from 24 September 2005. The Claimant said that his employment ended on 29 May 2013. He brought a claim in relation to non-payment of wages.
5. The claim was first submitted to the Tribunal on 5 October 2016 and was rejected for non-payment of the fee. After the change to the fees regime,

the Claimant requested reinstatement of his claim and the claim was reinstated.

6. The ET3 was received on 27 June 2018. The first Respondent had died in 2009. The second Respondent said that the Claimant was employed as a domestic worker for 18 months from 24 September 2005 until approximately March 2007 and that the Claimant was paid weekly in cash at minimum wage rates.
7. A claim for non-payment of wages may be brought as a claim for unauthorised deductions from wages pursuant to sections 13 and 23 of the Employment Rights Act 1996 or as a claim for breach of contract pursuant to the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994.
8. A claim for unauthorised deduction from wages must be presented before the end of the period of three months beginning with the date when the deduction was made or when the last in a series of deductions was made.
9. A claim for breach of contract must be presented within the period of three months beginning with the effective date of termination of the contract giving rise to the claim.
10. There is a dispute between the parties as to the date on which the Claimant's service with the Respondent ended. The latest date given by either party is the date given by the Claimant: 29 May 2013. The time limit for a claim for unauthorised deduction from wages or breach of contract would have ended at the latest on 28 August 2013. The Claimant first brought his claim on 5 October 2016. It was therefore over three years out of time on the date it was first presented.
11. The Claimant has not submitted any evidence as to why he only presented his claim on 5 October 2016 and why it was not reasonably practicable for him to present his complaint in time ie by 28 August 2013.
12. Accordingly, the Tribunal does not have jurisdiction to consider the Claimant's complaints of unauthorised deductions from wages and/or breach of contract and the claims are therefore dismissed.

Employment Judge Hawksworth

Date: 25 March 2019

Judgment and Reasons

Sent to the parties on: 10 April 2019

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For the Tribunal Office

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