



EMPLOYMENT TRIBUNALS

Claimant: Mr P Smith

Respondent: Skanska UK plc

HELD AT: Sheffield

ON: 8 August 2019

BEFORE: Employment Judge Brain

REPRESENTATION:

Claimant: In person

Respondent: Mr W Haines, Consultant

JUDGMENT

The Judgment of the Employment Tribunal is that following the withdrawal of his complaint, the claimant's claim that he was unfairly dismissed by the respondent stands dismissed.

REASONS

1. The claimant's contract of employment with the respondent came to an end on 6 August 2018. The claimant was made redundant. In law, this is a dismissal.
2. The claimant wished to complain that the decision to dismiss him was unfair. Therefore, he wished to pursue a complaint of unfair dismissal under the Employment Rights Act 1996. He contacted ACAS and underwent a period of mandatory early conciliation between 5 November 2018 and 19 December 2018.
3. Complaints of unfair dismissal must be presented to the Employment Tribunal within a period of three months beginning with the effective date of termination. This period is extended by the period spent undertaking mandatory early conciliation. Therefore, the limitation period within which for the claimant to present his claim to the Employment Tribunal expired on 19 January 2019.

4. The claimant presented his complaint to the Employment Tribunal on 20 February 2019. He was therefore one month and one day out of time for bringing his claim.
5. The purpose of today's hearing was to decide whether the claim was presented out of time and if so whether it was reasonably practicable for the claimant to have brought the claim in time. If it was not reasonably practicable for him to have done so then the Tribunal would have to be satisfied that the claim was brought within a reasonable time.
6. Although the claimant mentioned his age and his disability in the claim form, he said that he was not pursuing any complaints of discrimination related to those characteristics. (Those are claims that would be brought under the Equality Act 2010). That being the case, the Tribunal was only concerned with the limitation period as it applies to unfair dismissal complaints under the Employment Rights Act 1996.
7. The claimant said that he was very poorly for a period of around four weeks in January 2019. *"I copped for pneumonia and shingles"* was how he put it.
8. After receiving submissions from each party, I ordered that the issue at today's hearing be adjourned to another day and that I would give directions for the provision by the claimant of a witness statement and medical evidence in support of his case that it was not reasonably practicable to have filed his claim in time.
9. The claimant then asked about the possibility of withdrawing the case. The Tribunal suggested that the claimant be allowed some time this morning (given that we had a three hours' allocation) in order to consider his position. On behalf of the respondent, Mr Haines said that he was supportive of that suggestion. Indeed, after the claimant declined an adjournment Mr Haines volunteered the suggestion for a second time.
10. The claimant confirmed that he did wish to withdraw the case. It therefore stands dismissed following the withdrawal, upon Mr Haines having applied for a Judgment to that effect.

Employment Judge Brain
Date 15 August 2019

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