



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms N Davis  
**Respondent:** Medacs Healthcare plc

## PRELIMINARY HEARING

**Heard at:** London South Employment Tribunal  
**On:** 15 April 2019  
**Before:** Employment Judge C Hyde, Sitting Alone

**Representation:**  
**For the Claimant:** In Person  
**For the Respondent:** Ms E Waker, Counsel

## JUDGMENT

The Judgment of the Tribunal is that: -

1. The complaint of unfair dismissal under section 98(4) of the Employment Rights Act 1996 was struck out forthwith.
2. This Judgment does not affect the Claimant's complaints of race discrimination, unlawful deduction of wages and claim for unpaid holiday pay.

## REASONS

1. In her claim form which was sent to the Tribunal on 23 May 2018, the Claimant included a complaint for unfair dismissal. On the face of the claim form her employment started on 12 August 2017. In the body of her claim she

complained about constructive dismissal. She indicated that she was unable to continue with the company, although there was no dismissal or termination date stated.

2. By a letter dated 26 June 2018, the Claimant was written to by the Tribunal informing her that under section 108 of the Employment Rights Act 1996, claimants are not entitled to bring a complaint of unfair dismissal unless they were employed for two years or more except in certain specific circumstances which did not seem to apply in her case. The letter continued by telling the Claimant that it appeared from her claim that she was employed for less than two years. If so, she was told, the Tribunal could not consider her complaint of unfair dismissal. She was further informed that as she did not appear to be entitled to bring that part of the claim, an Employment Judge was proposing to strike out the unfair dismissal complaint. She was given until 10 July 2018 to give reasons in writing why her complaint of unfair dismissal should not be struck out. She was also asked to confirm in writing the dates on which she left the Respondent's employment.
3. In the grounds of resistance, the Respondent stated that the Claimant resigned with effect from 28 May 2018.
4. The next correspondence received from the Claimant was an email sent on 6 October 2018 in which she asked for permission to bring additional claims. Although this document was quite detailed and ran to some ninety-two numbered paragraphs over eighteen pages, it appeared that in essence, in relation to the dismissal, she was alleging race discrimination.
5. It did not appear to the Tribunal that the Claimant had therefore put forward any matters which would entitle her to bring an unfair dismissal complaint under the Employment Rights Act 1996 to which section 108 did not apply. In the circumstances therefore that complaint was struck out. The remaining claims brought by the Claimant were unaffected by this Judgment.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

**Employment Judge Hyde**

**Dated: 5 August 2019**