



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms D Tandu

**Respondent:** Estabulo Group

**HELD AT:** Leeds

**ON:** 29 August 2019

**BEFORE:** Employment Judge Shulman

## REPRESENTATION:

**Claimant:** In person

**Respondent:** Mr C Peel, Consultant

# JUDGMENT

1. The claim for unfair dismissal is dismissed as the Claimant does not have sufficient continuity of employment to claim for unfair dismissal.
2. The claims of no notice, no holiday pay and unauthorised deduction of wages are dismissed because they were not made within the three month period from the Claimant's effective date of termination and further that the Tribunal is not satisfied that it was not reasonably practicable for the complaints to be presented before the end of that period.

# REASONS

## 1. Introduction

The Claimant commenced employment with the Respondent on 1 January 2017 and was dismissed on 21 June 2018. The Claimant made claims of unfair dismissal, no notice pay, no holiday pay and unauthorised deduction from wages

to the Employment Tribunal on 11 March 2019. In respect of the claim for unfair dismissal the Claimant accepts that she does not have sufficient continuity of employment to claim. The claim itself is nearly six months out of time. The Tribunal has to consider whether to extend time to allow the claims within the meaning of section 111(2) Employment Rights Act 1996.

## **2. Facts**

The Tribunal having carefully reviewed all the evidence (both oral and documentary) before it finds the following facts (proved on the balance of probabilities):

- 2.1. In so far as paragraph 1. of these reasons contain matters of fact then the Tribunal finds those matters as being facts.
- 2.2. The Claimant consulted ACAS within one week of her dismissal. She was told at the outset what the time limit for issue was, namely, three months.
- 2.3. The Claimant started to look for legal advice at the same time and was directed to the Citizens Advice Bureau by ACAS and the Citizens Advice Bureau gave the Claimant the names of five law firms. This happened within one month of her dismissal.
- 2.4. The Claimant gave the Tribunal two reasons for inability to get legal help from these and other firms, namely, because she said she had not been employed for two years at the time of her dismissal and because of cost.
- 2.5. The Claimant said that she looked online and contacted over 20 more law firms between June and July 2018 and then she stopped looking for legal advice.
- 2.6. The Claimant says that from August 2018 until July 2019 she was in a very deep state of depression. Unfortunately for her she provided the Tribunal with no medical evidence of that depression or that it stopped her from eventually issuing the claim. She says that she tried to get the notes for this hearing from her GP but they were not before the Tribunal. Indeed whilst in that depression in March 2019 the Claimant did issue the claim which is now before the Tribunal.
- 2.7. The Claimant did provide two sick notes for stress in June 2018, which was on or about the time of her dismissal and she also provided a letter which did not contain medical opinion, which proved that she was invited to undertake counselling dated 7 November 2018.
- 2.8. In October 2018 she was advised to issue a claim in the small claims court which she has not done.
- 2.9. She said that she finally issued the claim before the Tribunal because she was encouraged by a clerk in the Employment Tribunal to do so. Although her intention in coming to the Tribunal was apparently to issue a claim in the small claims court she told the Tribunal that she is aware of the distinction between an Employment Tribunal and the small claims court.
- 2.10. The Claimant realises that she should have issued her claim within the three month period but she says that she made the wrong decision at the time.

**3. Determination of the issues**

**(after listening to the factual submission made by the Claimant, the Respondent declining to do so):**

- 3.1. The Claimant knew of her rights to make claims and of the time limit almost immediately after her dismissal.
- 3.2. At no time did she receive advice that might have mislead her as to her rights.
- 3.3. The Claimant was ill towards the end of the three month period, but she was also ill when she issued the claim and she produced no medical evidence to say that she was unable to issue the claim at any time since her dismissal.
- 3.4. The view of the Employment Tribunal is, taking into account all circumstances, that it was reasonably practicable for the Claimant to issue her claim within the three month period and that there is no reasonable explanation for her failure to do so.
- 3.5. In all the circumstances the Claimant's claims are dismissed as they are out of time and should have been issued within time. Further the Tribunal has no jurisdiction to hear the claim for unfair dismissal as she does not qualify so to complain.

**Employment Judge Shulman**

Date 4 September 2019

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