



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms A Johnson

**Respondent:** Danish Bake UK t/a Ole & Steen

**Heard at:** London (Central)

**On:** 17 December 2019

**Employment Judge:** Professor A C Neal

## Representation

**Claimant:** In Person

**Respondent:** Ms K Aldred (HR Manager)

# JUDGMENT

**The judgment of the Tribunal is that the Claimant's claim is struck out as having no reasonable prospect of success.**

Employment Judge

Date 17/12/2019

JUDGMENT SENT TO THE PARTIES ON

18/12/2019.

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FOR THE TRIBUNAL OFFICE

## REASONS

1 The parties attended a re-scheduled Preliminary Hearing before Employment Judge Professor Neal.

2 The Claimant's Claim Form ET1 indicated a claim being made by reference to the **Working Time Regulations 1998**. The Respondent applied to strike out that claim.

3 After discussion and clarification of matters set out in the Claim Form ET1, it was **AGREED** that the Claimant was not bringing a claim relating to non-payment of notice money or non-payment of wages (which have all been duly paid by the Respondent). She also confirmed that she was not seeking to bring any allegation of "discrimination".

4 The Claimant conceded that a number of the underlying reasons for dissatisfaction leading to the presentation of her claim before the Employment Tribunals related to her contract of employment, a copy of which was produced for the Employment Judge.

5. After detailed discussion around the terms of that contract of employment (and, in particular, by reference to Part 7, which deals with hours of work) the Claimant conceded that she was not able to point to any alleged "breach of contract" on the part of the Respondent.

6 It was also conceded that there was no provision in the **Working Time Regulations 1998** which the Claimant sought to rely upon in making her claim in relation to "Working hours and breach (*sic*) of respite time period during shifts", as she had expressed her complaint in Box 8.1 of her Claim Form ET1.

7 The Claimant further accepted that, even if she could argue that she had been "unfairly dismissed" in consequence of the way in which various of her concerns had been dealt with by the Respondent, this would have to form part of a claim alleging "Unfair Dismissal" within the scope of the provisions of Part X of the **Employment Rights Act 1996**, and she did not possess the necessary period of qualifying service to entitle her to present such a claim to the Tribunals.

8 In the light of the Claimant's clarification of her Claim Form ET1, and her recognition of the problems facing her in constructing her complaints in such a way as to raise matters which could fall within the jurisdictional powers of the Employment Tribunals, the Employment Judge is of the view that the Claimant's claim has no reasonable prospect of success.

9 Having regard to the powers contained in Rule 37 of the **Employment Tribunals Rules of Procedure 2013** the Employment Judge is of the view that in the light of the finding set out above the Claimant's claim should be struck out in its entirety.

Employment Judge Neal

Date 17/12/2019

REASONS SENT TO THE PARTIES ON

18/12/2019

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For the Tribunal Office