



THE EMPLOYMENT TRIBUNALS

Claimant: Miss R Rahman
Respondent: Barclays Bank UK PLC
Heard at: East London Hearing Centre
On: 1 March 2019
Before: Employment Judge Burgher

Representation

Claimant: Did not attend
Respondent: Ms R Owusu-Agyei (Counsel)

PRELIMINARY HEARING (OPEN) SUMMARY

Issues

1 The matter was listed before me to determine what claim, if any, the Claimant is making that the Tribunal has jurisdiction to hear.

2 The Claimant did not attend due to the fact that she had food poisoning and had been unwell the previous days. On 28 February 2019, the Claimant requested a postponement of the hearing to a date when she would be able to attend. The postponement application was refused by Regional Employment Judge Taylor on the same day.

3 I considered the Claimant's further postponement request sent by email at 19:11 on 28 February 2018 providing medical evidence of a telephone consultation with her GP. This stated that the Claimant was vomiting for 4 days, was dizzy and had diarrhoea. If evidence had been necessary to consider the issue before me I would have been minded to postpone the hearing in order for the Claimant to be given an opportunity to be heard. However, as the matter concerned the jurisdiction of the Tribunal to consider the Claimant's claim I refused the postponement.

Claimant's claim

4 The Claimant's ET1 was submitted on 21 November 2018 and she claimed 'Unfair treatment regarding transfer to another branch'. The Claimant alleges that she was notified of a transfer from the Tottenham Court Road Branch to the Southampton Row Branch on 29 May 2018. She claims that this was insufficient notice and unreasonable management.

5 The Claimant remains employed by the Respondent as stated at paragraph 5.1 of her ET1. The Claimant's employment transferred from Barclays Bank Plc in September 2018.

6 In respect of the Tribunal jurisdiction, the Claimant was seemingly making a breach of contract claim. The Claimant was asked to clarify her claim by letter from the Tribunal dated 5 December 2018. She responded by email dated 6 December 2018 stating that she had taken legal advice and she was advised that she could make a claim for breach of contract even if she is still employed by Barclays. She stated that this was because she changed position within the company from the original position. By letter dated 13 December 2018 Employment Judge Gilbert informed the Claimant that a move to a different branch was not a new position.

7 By email dated 5 February 2019, the Claimant confirmed that she would like to proceed with her claim.

8 It was unclear what remedy the Claimant was seeking the Tribunal to order.

Submissions

9 The Respondent submitted that the Claimant's claims should be dismissed due to the Tribunal not having jurisdiction to hearing the claim and/or that the claim has not been presented within the applicable time limit.

10 I made it clear that, in view of the Claimant's inability to attend, I would not consider the time issue. The Claimant was not able to give evidence as to her position in this regard.

11 38. Regulation 3 of the Employment Tribunals Extension of Jurisdiction (E&W) Order 1994 states:

Extension of jurisdiction

3. *Proceedings may be brought before an Employment Tribunal in respect of a claim of an employee for the recovery of damages or any other sum (other than a claim for damages, or for a sum due, in respect of personal injuries) if –*
 - (a) *the claim is one to which section 131(2) of the 1978 Act applies and which a court in England and Wales would under the law for the time being in force have jurisdiction to hear and determine;*
 - (b) *the claim is not one to which article 5 applies; and*

(c) *the claim arises or is outstanding on the termination of the employee's employment.*

12 It is clear that the Claimant's employment has not terminated, whether by move to a different branch or otherwise. Therefore, the Tribunal does not have jurisdiction to consider the Claimant's claim for breach of contract.

13 The Claimant's claim is therefore dismissed.

Employment Judge Burgher

11 February 2020