



EMPLOYMENT TRIBUNALS (ENGLAND & WALES)
LONDON CENTRAL

BETWEEN

Claimant	Mr David Attridge
Respondents	London Borough of Hammersmith and Fulham
Employment Judge:	Mr J S Burns
Representation	
Claimant:	In person
Respondent	Mr S Harding (Counsel)

Judgment

1. The claims have been brought outside the applicable statutory time limits and accordingly the tribunal has no jurisdiction to consider them.
2. The claims are struck out.
3. The 5-day hearing due to start on 28/9/2020 is cancelled.

Reasons

1. The judgment was given at the conclusion of an Open Preliminary Hearing held by CVP. The tribunal considered it as just and equitable to conduct the hearing in this way. In accordance with Rule 46, the tribunal ensured that members of the public could attend and observe the hearing. This was done via a notice published on Courtserve.net. A member of the public did attend. The parties were able to hear what the tribunal heard and see the witnesses as seen by the tribunal. From a technical perspective, there were no difficulties. No requests were made by any members of the public to inspect any witness statements or for any other written materials before the tribunal. The participants were told that it was an offence to record the proceedings. The tribunal ensured that the Claimant, had access to the relevant written materials.
2. I heard evidence on oath from the Claimant (despite the fact that he had failed to serve a witness statement as previously directed). I received written and oral submissions from the Respondent and was referred to a previous EAT decision, and I received oral submissions from the Claimant.
3. The Claimant's EDT was 8 February 2019. ACAS was notified on 23 April 2019 and the certificate issued on 8 May 2019. The claimant had to the 7 June 2019 to lodge his claim. The claim was received on the 6 June 2019 but the claim form was defective as the name of the employer on ACAS was not the same as the employer on the claim form. The Defendant had

listed the head of HR as the Respondent, rather than then LBHF. It was rejected on 20th September 2020. The claimant wrote to the Tribunal on the 23rd September accepting he had made an error. The Tribunal admitted the claim but said that the date of presentation would be 23 September 2019.

4. The claimant brings claims under these limbs with the relevant test for extension of time:
 - (i) Automatic unfair dismissal by virtue of the making of a protected disclosure, brought under section 103A of the ERA 1996 – section 111(2)(b) of the ERA 1996 brings this under the ‘reasonably practicable’ category of cases;
 - (ii) Detriment for the making of a protected disclosure – section 47B – this falls under ‘reasonably practicable’ limb – section 48(3)(b) of the ERA 1996;
 - (iii) Breach of contract – failure to pay 3 month’s notice – this falls under ‘reasonably practicable’ as well – Article 7(c) of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994/1623.
 - (iv) Disability discrimination, sections 15, 20 and 21 – ‘just and equitable principle - s123(1)(b) of the EA 2010.
5. The fact that he presented a claim in time (albeit against the wrong party) demonstrates that he could easily have presented a claim against the correct party in time. While I accept that the Claimant was suffering various stressors at the time, (including his dismissal, health problems, a pending divorce, threatened homelessness, financial difficulties and problems with rogue tenants occupying a property), I do not find that these were such as to make it not reasonably practicable for him to enter correctly the name of his employer in the requisite box on his ET1. The Claimant is an intelligent person who was quite capable of completing this simple task correctly, but instead he simply made a careless mistake.
6. While I am not able to make any final determination of this, my impression is that the disability claim is weak and would have little prospect of success. So far it has been brought solely on the basis of the claim that he was disabled by reason of stress and anxiety. He referred today to nerve damage causing physical mobility problems, but to introduce that would require a late amendment. The medical evidence does not support the suggestion that in the period to February 2019 (when he was dismissed by the Respondent) he would have met the statutory test for being disabled by reason of stress and anxiety. Furthermore, even if disability then could be proved, the claim appears to be limited to an alleged failure to make reasonable adjustments pertaining to the venue and dates of various hearings such as his appeal hearing against dismissal. At best this would be a relatively minor matter and ancillary to the main claims which he has sought to pursue.
7. Generally I accept the submissions in the Respondent’s skeleton argument dated 19/8/2020, which submissions are adopted and incorporated herein by reference.

8. In summary it was reasonably practicable for the claimant to bring his claims as per 4(i) (ii) and (iii) above against the Respondent within the statutory period, but he failed to do so. The disability claim is also brought out of time and it is not just and equitable to extend time to allow the disability claim to proceed alone.

Mr J S Burns Employment Judge

London Central

20/8/2020

For Secretary of the Tribunals

date sent to the Parties – 21ST Aug 2020