



EMPLOYMENT TRIBUNALS

Claimant: Mr F Ahammed

Respondent: 1SA Ltd T/A Subway

Heard at: London Central

On: 11 August 2020

Before: Employment Judge H Grewal

Representation

Claimant: In person

Respondent: No appearance

JUDGMENT

1 The Tribunal has jurisdiction to consider the Claimant's complaints of breach of contract, unauthorised deductions from wages and for holiday pay.

2 The claims will be heard on **1 September 2020 at 2 p.m.** at the London Central Employment Tribunal. That hearing date will be vacated if the Claimant provides sufficient information for the Tribunal to give a rule 21 judgment.

REASONS

1 The Claimant's employment terminated on 11 July 2019. He commenced Early Conciliation ("EC") on 10 August 2019 and the EC certificate was granted on 10 September 2019. The name of the prospective respondent on the EC certificate was ISA Ltd t/a Subway.

2 The claim form was presented on 19 September 2019 and it gave the name of the respondent as Sonny Annand. It was rejected on 14 November 2019 because the name of the respondent was not the same as the one given on the EC certificate. On 21 November the Claimant amended the name of the Respondent on the claim form to ISA Ltd t/a Subway.

3 The claim was accepted on reconsideration and was treated as having been received on 21 November 2019.

4 **Section 207B** of the **Employment Rights Act 1996** (identical provisions are to be found in the Working Time Regulations 1998 and the Employment Tribunals Extension of Jurisdiction Order 1994) provides,

“(2) In this section –

(a) Day A is the day on which the complainant or applicant concerned complies with the ... requirement to contact ACAS before instituting proceedings ... and

(b) Day B is the day on which the complainant or applicant concerned receives ... the certificate ...

(3) In working out when a time limit set out by a relevant provision expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(4) If a time limit set by a relevant provision would (if not extended by this subsection) expire during the period beginning with Date A and ending one month after Day B, the time limit expires at the end of that period.”

5 In this case, the effect of section 207B(3) is that the time limit for all these claims expired on 10 November 2019. The period of 31 days between 11 August (the day after Day A) and 10 September (Day B) does not count. A period of three months from 11 July 2019, not counting the 31 days, ends on 10 November 2019. Section 207B(4) does not apply in this case.

6 The time limit expired on 10 November. The claim was presented on 21 November. I, therefore, had to consider whether it was not reasonably practicable for the claims to have been presented by 10 November 2019.

7 In **Adams v British Telecommunications plc EAT/0342/15** the EAT held that in a case where the first claim is presented in time but rejected because it is defective and the second claim is presented outside the time limit, in determining whether it was reasonably practicable to present the claim in time, the focus should be on the second claim and whether there was any impediment to timely presentation of that claim.

8 In the present case, the Claimant made a mistake when he filled in the Respondent's name in the claim form. I have no doubt that it was a genuine error and that he was unaware that he had made a mistake. The claim was presented on 19 September, well before the time limit expired. He believed that he had presented a correctly completed claim and had no reason to doubt it until he received the Tribunal's rejection of his claim on 14 November (nearly two months after he

presented it). The time limit for presenting the claim was 10 November. As the Claimant was not aware of any error in his first claim before 10 November, I concluded that it was not reasonably practicable for him to have presented that claim by that date. I considered that the presentation of the second claim within a week of being informed of the error was reasonable. The Tribunal, therefore, had jurisdiction to consider all the complaints.

9 I could not give judgment today because it is not clear what sums the Claimant is claiming and his bases for calculating those sums. I needed to hear evidence from the Claimant on those matters. It was clear that his English was very limited and that he required the services of an interpreter. The Claimant had brought a friend to act as his translator. I explained to him that the Tribunal did not permit parties to use their friends as interpreters and that we only used professional interpreters engaged by the Tribunal. I adjourned the hearing so that the Tribunal could book a Bengali interpreter for the Claimant. If, however, before that date the Claimant sent to the Tribunal a document setting out clearly what he was claiming for notice pay, unpaid wages and holiday pay and how he had calculated those figures and any documents in support of what he said (such as a contract, pay slips, etc), it might be possible for the Tribunal to give a rule 21 judgment on his claims.

Employment Judge -Grewal

Date : 14/08/2020

JUDGMENT & REASONS SENT TO THE PARTIES ON

14/08/2020.....

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FOR THE TRIBUNAL OFFICE