



EMPLOYMENT TRIBUNALS

Claimant: Mr J Knowles

Respondent: Securitas Security Services Ltd

PRELIMINARY HEARING

Heard at: Manchester (by video conference)

On: 26 October 2020

Before: Judge Brian Doyle (sitting alone)

Representatives

For the claimant: In person

For the respondent: Ms J Young, solicitor

RESERVED JUDGMENT

The claimant's claim has not been presented within time and, there being no grounds for an extension of time, the claim is dismissed.

REASONS

1. The claim contains complaints of (1) unfair dismissal and (2) unlawful deductions from or non-payment of wages.
2. This is a preliminary hearing conducted this afternoon by video conference technology (CVP).
3. The question for me is whether the complaints have been presented within 3 months of (1) the dismissal and/or (2) the alleged deductions or non-payment of wages. If not, the question then is whether it was reasonably practicable for the complaints to be presented within time and, if not, whether they were presented within a reasonable time thereafter.
4. I heard evidence from the claimant, who gave his evidence as best he could, although in many key aspects his recollection at this distance was poor and his

evidence vague. I heard submissions on behalf of the respondent. I considered a bundle of relevant documents prepared for the preliminary hearing.

5. I need not set out in formal detail the key provisions of the employment rights legislation that address the time limitations for bringing unfair dismissal and unpaid wages claims. The relevant law will be apparent from my account of it below. See sections 23, 111 and 207B of the Employment Rights Act 1996.
6. The claimant agrees that his employment with the respondent started on 17 September 2011 as a Vessel Fire Safety Officer and ended on 29 March 2019. That later date is the effective date of termination of employment for present purposes. His employment ended summarily by alleged reason of gross misconduct following a disciplinary hearing on 29 March 2019 at which he was told of his immediate dismissal and of his right of appeal within 7 days.
7. That decision was confirmed by the respondent to the claimant by letter dated 1 April 2019. That letter was sent to the claimant by mail in hard copy and also by email. It does not appear that he received the email copy, but he did receive the hard copy. The claimant has speculated that his son may have deleted the relevant email when playing with his phone.
8. I do not need to resolve that matter because it is accepted that the claimant knew of his right to appeal (having been told of it at the disciplinary hearing) and he did receive the hard copy letter (although probably after the 7 days for an appeal had already expired). In any event, any right of appeal would have no effect on the date of termination from which time would begin to run.
9. Both at the disciplinary hearing, and immediately afterwards, the claimant was represented and advised by a GMB trade union representative. His representative advised him by mid-April 2019 that the time limit for an appeal had expired and that the respondent would not consider a late appeal. The representative advised the claimant to contact Acas, which he did, apparently sometime in the second half of April. He received no further advice or assistance from his trade union.
10. It seems that the claimant was not at this stage talking to the Acas early conciliation service, but possibly to its advice service or general conciliation team. The claimant's evidence on this point was not clear and I have no better evidence of it. It seems that Acas made some attempts to speak to the respondent, although exactly to what purpose is also not clear. This took a "couple of months" (in the claimant's account) before Acas advised the claimant that, although the 3 months' time limit for bringing an Employment Tribunal claim had already expired, he needed to contact the early conciliation service before he could attempt to do so.
11. The claimant told the Tribunal that he had no experience or knowledge of Employment Tribunal claims or proceedings. He had done little or no research other than what he had been told by his trade union or by Acas. He had the immediate distractions of looking for new employment, the ordinary stress and

trauma of unemployment, and the natural priorities that he had to afford his partner and son (who has a health condition).

12. The Acas documentation confirms that the claimant notified the Acas early conciliation service of his potential claim on 16 October 2019. Acas issued an EC certificate on 29 October 2019. The claimant presented his ET1 claim to the Tribunal on 6 November 2019
13. As the effective date of termination of employment was 29 March 2019 the claim to the Tribunal should have been presented to it by 28 June 2019. Had he notified the Acas early conciliation service no later than that date the time limit for a claim could have been extended by up to one month. By the time the claimant contacted the Acas early conciliation service on 16 October 2019 the claim was already four and a half months out of time. That notification to Acas was by now too late and not capable of being redeemed, except by an exercise in discretion extending the time limit.
14. When the claim was presented on 6 November 2019 it was nearly seven and a half months after the dismissal. I am satisfied that it was reasonably practicable for the claimant to have complied with the Acas early conciliation requirements and to have made a timely claim to the Tribunal. He had had some advice and assistance from his trade union, albeit not after mid-April 2019. He had advice from Acas. I am satisfied that within the primary time limit of 3 months he was aware of the 3 months requirement. The explanation for any delay is not in itself exceptional nor one that naturally falls within the range of reasons that might suggest that a timely claim was not reasonably practicable.
15. Although once he had obtained the Acas certificate the claimant acted with reasonable speed to present a claim, the delay in doing so before 16 October 2019 (the date of the Acas notification) was not a reasonable delay.
16. Accordingly, the complaint of unfair dismissal was not presented in time; it was reasonably practicable for it to have been presented in time; and to the extent that it might not have been reasonably practicable, it was not presented within a reasonable time of the expiry of the time limit.
17. The claim also appears to contain references to complaints of earlier grievances concerning bullying and a suspension from work arising from the lapsing of a security clearance. It is not entirely clear from what date these matters arise, although they are most probably concerned with a period of time dating no later than October 2018 and possibly earlier. Those complaints are considerably out of time (and may not even have been the subject of Acas early conciliation). The claimant has offered no explanation for the delay in raising them.
18. Accordingly, those complaints were also not presented in time; it was reasonably practicable for them to have been presented in time; and to the extent that it might not have been reasonably practicable, they were not presented within a reasonable time of the expiry of the time limit.

19. In conclusion, the claim cannot proceed further and it is dismissed.

Judge Brian Doyle

DATE 26 October 2020

JUDGMENT & REASONS
SENT TO THE PARTIES ON
6 November 2020

FOR THE TRIBUNAL OFFICE