



EMPLOYMENT TRIBUNALS

Between:

Mr V Josephs
Claimant

and

1. Andrew Goodhead
2. Trade Team Ltd
Respondents

At an Open Preliminary Hearing by Cloud Video Platform

Held at: Nottingham

On: 25 September 2020

Before: Employment Judge Blackwell (sitting alone)

Representation

For the Claimant: In person
For the Respondents: Mr Dunn of Counsel

JUDGMENT

The Hearing is adjourned.

REASONS

1. Today's hearing was at Mr Josephs' request changed from an attended hearing to a remote hearing. It had been the Respondents' preference that there be an attended hearing but they did not object to Mr Joseph's request.

2. Unfortunately for technical reasons, Mr Josephs was only able to join the remote hearing by telephone without any visual connection. Mr Dunn (Counsel for the Respondents) urged me to continue with today's hearing given that it was at Mr

Josephs' behest that it was a remote hearing at all and further it was the inadequacy of Mr Josephs' equipment which prevented him from attending fully.

3. Mr Dunn also reminded me of the relevant provisions of the overriding objective. Although it is possible for a party to give evidence and be cross-examined over the telephone without a visual link, however in my view in the circumstances of this case, which involves jurisdictional issues, the parties would not be on an equal footing were we to proceed.

4. I am satisfied that the proper way to proceed is for there to be an attended hearing. Mr Dunn pointed out that Mr Josephs had not complied with EJ Hutchinson's Order sent to the parties on 13 August requiring Mr Josephs to produce a witness statement. **There is a further order in that regard and Mr Josephs should understand that if he does not comply with that Order, then all of his claims will be struck out without further notice.**

ORDERS

Made pursuant to the Employment Tribunal Rules 2013

1. There will be a Preliminary Hearing before an Employment Judge sitting alone at the Nottingham Employment Tribunal Hearing Centre, 50 Carrington Street, Nottingham NG1 7FG commencing at 10 am on 24 November 2020 to determine:-

1.1 In relation to the claim of Unfair Dismissal, whether Mr Josephs has sufficient continuity of employment to bring such a claim having regard to the provisions of section 108(1) of the Employment Rights Act 1996. If he has such continuity of employment, then further does the tribunal have jurisdiction to hear that claim of unfair dismissal having regard to the provisions of section 111 of the 1996 Act?

1.2 In relation to Mr Josephs' claim of Race Discrimination, does the tribunal have jurisdiction to hear that claim having regard to the provisions of section 123 of the Equality Act 2010?

2. By not later than **23 October 2020**, Mr Josephs is to serve on the tribunal and on the Respondents' solicitors a witness statement which deals with the following matters:-

2.1 To confirm or otherwise that his claim of Race Discrimination is confined to the allegation made in his Claim Form as follows:

"In July 2019 i was in the smoking shed with a fellow staff member called Glen, when Andrew approached us. I had mentioned that a friend of mine will be going on holiday for 5 weeks, after which Andrew said to us that

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“Oh, he will be black like Vince, a Nigga, when he comes back, No Offence!”

...”

2.2 To give reasons why your claim of Unfair Dismissal should not be dismissed for want of jurisdiction in regard to your period of employment, which is set out in the Claim Form as being from 2 May 2019 to 27 December 2019.

2.3 Explaining why having regard to the provisions of section 123 of the Equality Act 2010 your claim of Race Discrimination appears to have been served outside the statutory time limit.

2.4 Why it would be “just and equitable” for the tribunal to extend the time limit.

3. If such witness statement is not served by 4 pm on 23 October 2020, all of Mr Josephs’ claims will be struck out without further notice.

Employment Judge Blackwell

Date: 28 September 2020

JUDGMENT SENT TO THE PARTIES ON

29 September 2020

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