



EMPLOYMENT TRIBUNALS

Claimant: Miss D Sindimwo

Respondent: WPCHL Limited t/a Western Park View Nursing Home

Heard at: Nottingham by CVP

On: Wednesday 7 April 2021

Before: Employment Judge M Butler (sitting alone)

Appearances

For the Claimant: No attendance

For the Respondent: Ms J Fitzsimmons, Solicitor

Covid-19 statement:

This was a remote hearing. The parties did not object to the case being heard remotely. The form of remote hearing was V – video. It was not practicable to hold a face-to-face hearing because of the Covid-19 pandemic.

JUDGMENT

The Employment Tribunal Judge gave judgment as follows:

1. The claims of discrimination on the grounds of race, age and religion or belief were submitted out of time, it is not just and equitable to extend time and they are dismissed.
2. The Claimant's claim for unpaid wages is out of time and it being reasonably practicable to have submitted it in time, it is dismissed.

REASONS

Introduction

1. By a claim form submitted to the Tribunal on 11 January 2021, the Claimant made claims of unfair dismissal, discrimination and the narrative of her claim included a claim for unpaid wages. The unfair dismissal claim was struck out by a judgment dated 8 February 2021 as the Claimant had been employed by the Respondent for less than two years as she had only been employed for six days.

2. Standard case management orders were made on 18 January 2021 requiring the Claimant to set out in writing what remedy the Tribunal was being asked to award and, in particular, how such award was calculated. The standard directions contained a warning that, under Rule 6 of the Rules of Procedure, a claim could be struck out in whole or part if a party failed to comply with the Tribunal's orders. At no time has the Claimant complied with these orders.

3. Further orders were made in preparation for this Preliminary Hearing on 16 February 2021 which included a requirement for mutual exchange of witness statements by 30 March 2021. The Claimant did not comply with these orders and on 31 March Employment Judge V Butler ordered the Claimant to forward her witness statement to the Respondent by no later than 4:00 pm on 1 April 2021. The Claimant did not comply with these orders.

4. The purpose of the Preliminary Hearing was to consider whether the Claimant's claims were out of time and, in the case of the discrimination claims, whether it was just and equitable to extend time. The Claimant, did not join this video hearing. I directed the Court Clerk to telephone the Claimant to ascertain whether she proposed to attend the hearing but the telephone number she had given on her claim form was unobtainable. I was satisfied that the Claimant had been given adequate notice of this hearing and decided that the hearing should proceed.

5. It was, of course, for the Claimant to explain today why she had not submitted her claims in time. They arose in November 2019 and she did not submit her claim until some nine months after the expiry of the three month time limit, even allowing for early conciliation. The Claimant submitted no evidence in the form of a statement to explain why it might be just and equitable to extend time to allow the discrimination claims to proceed. The claim form has little detail of any of the claims.

6. I accepted into evidence the statement of Mr Matthew Hughes, Director of the Respondent who affirmed and confirmed his witness statement was true.

7. In the absence of any evidence from the Claimant and taking account of her complete failure to comply with any orders of the Tribunal, I concluded that it was not just and equitable to extend time to allow the discrimination claims to proceed and I dismissed them.

8. The narrative of the claim form and correspondence copied to the Tribunal shows that the Claimant was also pursuing an unspecified amount in respect of unpaid wages. The Respondent had calculated how much the Claimant was owed based on the shifts that she had worked and even sent the Claimant a cheque for that amount. The Claimant refused to accept the cheque but has not complied with the Tribunal's order to provide calculations and the amount she says she is owed. Since this claim is also out of time, it can only proceed if it was not reasonably practicable for it to have been submitted in time. Again, the Claimant has not engaged in the Tribunal process and has not complied with orders so I cannot find it was not reasonably practicable to submit the claim for wages in time and I dismiss it.

Employment Judge M Butler

Date 16 April 2021

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

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