



EMPLOYMENT TRIBUNALS

Claimant: Mrs N Idlan

Respondent: Central & East Northamptonshire Citizen's Advice

Considered on the papers On: 23 March 2021

Before: Employment Judge T Brown (sitting alone)

JUDGMENT

The Order dated 16 November 2019 is hereby set aside.

REASONS

1. This case was referred back to me today, 23 March 2021, having been considered by Employment Judge Ord on 23 February 2021. The case had been referred to the Tribunals by Acas on 25 January 2021, who sought an update as to its progress.
2. It is a matter of the greatest regret that the case had not been picked up before January 2021 by the Employment Tribunals, that it was picked up by an external agency and that it has taken two months thereafter for the matter to be referred back to me. I apologise to the parties on behalf of the Employment Tribunals.
3. I made case management orders on paper in 16 April 2020 (the Claimant's email of 19 January 2020 having been sent to me). Both parties responded to those case managements orders, and from those responses, I am satisfied that the parties did not receive notice of the 16 November 2019 order in time for the Claimant to comply with it. It would therefore plainly be unjust for the Claimant's claim to be struck out for non-compliance with an order that she could not have complied with.

CASE MANAGEMENT

4. The Claimant has since provided details of why she says that her claim was presented in time. She says that the last day of her employment was 31 March

2019. The ordinary time limit for her claim would therefore have been 30 June 2019. The Claimant engaged in Acas early conciliation between (it seems 1 May 2019 and 1 June 2019) which extended time for presentation of the claim but the last day to present an in-time claim was 30 July 2019 and the claimant presented her claim on 1 August 2019.

5. It therefore appears unlikely that the Claimant's claim was presented in time.
6. **There will be an open preliminary hearing (which can be heard by any judge) to decide whether the Employment Tribunals have jurisdiction to consider the claim.** The hearing will be listed on the first available date and may be heard by Cloud Video Platform. The time allocation for that hearing is **three hours**, to include a decision and any further case management if the claim proceeds. The parties must prepare to present their cases accordingly.
7. To enable that hearing to proceed smoothly, I make the following case management orders of my own motion. I have not heard the parties before making them, and it is open to the parties to apply to the Tribunal to have any order varied or set aside.

ORDERS

Made pursuant to the Employment Tribunal Rules of Procedure

8. The parties must **send each other within 28 days** of the date on which these orders are sent to them a single PDF file containing any documents that they will refer to at the preliminary hearing, explaining whether the claim was made out of time and if so on what basis the Tribunal should consider the claim. Unless there are exceptional circumstances, no document will be considered by the Tribunal at the preliminary hearing unless it is contained in a bundle sent in accordance with this order.
9. The parties must send each other **14 days after** they exchange their PDF files, referred to in the previous paragraph, copies of any witness statements on which they will rely at the preliminary hearing, setting out any facts on which they rely to explain whether the claim was made out of time and if so on what basis the Tribunal should consider the claim. Unless there are exceptional circumstances, the Employment Judge at the preliminary hearing will not consider any oral evidence of facts from a party unless those facts are included in a witness statement exchanged in accordance with this order. Witness statements should include page numbers, and paragraph numbers, and be in size 12 font, and shall be signed and dated, with a statement of truth.
10. The parties shall send each other **7 days before** the preliminary hearing a written summary of their arguments as to whether the claim was made out of time and if so on what basis the Tribunal should consider the claim. Written summaries should not exceed 5 pages of A4 paper, size 12 font, and should use page numbers and paragraph numbers.

11. **7 days before the preliminary hearing**, the Respondent shall send to the Tribunal copies of the parties PDF files, witness statements, and written summaries provided for by the previous paragraph. This may need to be sent in more than one email or may be uploaded to the Tribunal's document upload centre. All documents should be provided in PDF format.
12. Anyone affected by any of these orders may apply for it to be varied, suspended or set aside. Any further applications should be made on receipt of these orders, or as soon as possible.
13. The parties may by agreement vary the dates specified in any order by up to 14 days without the Tribunal's permission except that no variation may be agreed where that might affect the hearing date.
14. **Public access to Employment Tribunal decisions**
All judgments and reasons for the judgments are published, in full, online at www.gov.uk/Employment-Tribunal-decisions shortly after a copy has been sent to the parties in a case.
15. **Any person who without reasonable excuse fails to comply with a Tribunal Order for the disclosure of documents commits a criminal offence and is liable, if convicted in the Magistrates Court, to a fine of up to £1,000.00.**
16. **Under rule 6, if any of the above orders is not complied with, the Tribunal may take such action as it considers just which may include: (a) waiving or varying the requirement; (b) striking out the claim or the response, in whole or in part, in accordance with rule 37; (c) barring or restricting a party's participation in the proceedings; and/or (d) awarding costs in accordance with rule 74-84.**

Employment Judge Brown
23 March 2021

SENT TO THE PARTIES ON

27 April 2021

FOR THE TRIBUNAL OFFICE