



THE EMPLOYMENT TRIBUNALS

BETWEEN

Ms Parveen Khubber-Bingol

Claimant

AND

19 RM LTD

Respondents

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT: London Central

ON: 29 March 2021

EMPLOYMENT JUDGE: Mr Paul Stewart

MEMBERS: sitting alone

For Claimant: in person

For Respondents: Mr Dilbaag Bansal, Senior Litigator

of RBS & NatWest Mentor Services

JUDGMENT

The claims are all dismissed as having been brought out of time and hence the Tribunal lacks jurisdiction.

REASONS

1. This is an application whereby the Claimant brings 5 claims, to wit:
 - a) Unfair Dismissal
 - b) Race Discrimination
 - c) Age Discrimination
 - d) Notice Pay
 - e) Unlawful Deduction
2. The Claimant was dismissed on 3 February 2020. She should therefore have commenced early conciliation on or before 2 May 2020 but failed to make any contact with ACAS until 16 September 2020, 137 days outside of the 3-month statutory time limit. The Claim Form was received by the Tribunal on 5 October 2020.
3. At a Preliminary Hearing (Case Management) conducted on 4 February 2021 before Employment Judge Grewal, an order was made whereby this case was listed for this Preliminary Hearing to determine whether the Tribunal has jurisdiction to consider any of the claims, having regard to the time limits for presenting such claims. Employment Judge Grewal explained to the Claimant the

different tests for deciding whether out of time claims should be allowed to proceed.

4. At this Preliminary Hearing, the Claimant gave evidence. She had worked for just over 5 ½ years for the Respondent as a Garment Quality Technologist when she was dismissed with one month's salary in lieu of notice on 3 February 2020. She was entitled under her contract to two months' notice. The remainder of the money in lieu of notice that she should have been paid was paid some six months later after, as she put it in her ET1, "many emails, phone calls and chasing".
5. In her evidence, she disclosed that she went to her local Citizens Advice Bureau (CAB) where she received advice from an Honorary Legal Adviser, one who, in fact, was an Employment Judge. The Claimant say she was not advised on time limits. I find it difficult to believe that a legal adviser in this field would fail to mention time limits but, even if I was to accept that, I find it difficult to believe that the Claimant would not have enquired about time limits. The Claimant told me she knew herself that "everything had a time limit" (e.g. to raise a grievance or to appeal from a grievance determination.) When giving evidence, the Claimant gave every indication of being an intelligent woman and, given she knew everything had a time limit, I find it strange that she did not make any enquiries or find out for herself what were the time limits.
6. Section 111 of the Employment Rights Act 1996, which allows for a complaint to be presented to the Employment Tribunal by any person that he was unfairly dismissed, lays down that an Employment Tribunal shall not consider such a complaint "unless it is presented to the tribunal—
 - a) before the end of the period of three months beginning with the effective date of termination, or
 - b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.
7. A similar provision in respect of unauthorised deduction and in respect of contractual claims for wrongful dismissal.
8. I was referred to a 1984 Court of Appeal case on the interpretation of section 111, *Palmer v Southend on Sea BC*, where May LJ suggested the better question for a Tribunal to ask was 'was it reasonably feasible to present the complaint to the [employment] tribunal within the relevant three months?'
9. When I ask that question, the answer I arrive at on the evidence before me is that it was reasonably feasible for the Claimant to have presented her complaints of unfair dismissal, notice pay and unauthorised deduction within the relevant three months. Reverting to the words of the statute, I cannot on evidence accept it was not reasonably practicable for the Claimant to make claim in time.
10. I turn to the allegations of discrimination. The person responsible for what was described in the ET1 as being "Heavily bullying, mobbing, racist and ageist remarks" was someone who was the Claimant's manager but ceased to occupy that role some two years before her dismissal. The interaction giving rise to the Claimant's complaints arose when this individual was the Claimant's manager.

Thus, the complaints relating to this manager arose on unspecified dates at least two years before the date of dismissal. That means that those complaints are two years and 137 days out of time.

11. The Claimant told me in evidence that, when she consulted the Honorary Legal Adviser at the CAB, she did not seek advice in respect of the claims she has brought relating to race and age discrimination. She explained that there were reasons for her not taking action in respect of the discrimination claims until she presented the claims 137 days after the expiry of the period of 3 months beginning with the date of dismissal. Shortly after lockdown, her husband contracted Covid 19. He self-isolated and made a full recovery without having to be hospitalised. In addition, there was what she described as a death in the family.
12. I have no doubt that these events were worrying and, in the case of the death, a cause for grief. They go some way to explain the Claimant's inaction in the period after dismissal but do not provide any reason for inaction before dismissal.
13. I bear in mind the advice that Auld LJ provided in Robertson v Bexley Community Centre [2003] EWCA Civ 576 at paragraph 25:

It is also of importance to note that the time limits are exercised strictly in employment and industrial cases. When tribunals consider their discretion to consider a claim out of time on just and equitable grounds there is no presumption that they should do so unless they can justify failure to exercise the discretion. Quite the reverse. A tribunal cannot hear a complaint unless the applicant convinces it that it is just and equitable to extend time. So, the exercise of discretion is the exception rather than the rule.

14. On any view, this claim is well out of time. I am not persuaded that the complaints made of the manager constitute conduct over a period which is to be treated as done at the end of the period. However, if I am wrong about that, the period ended when the manager ceased to manage the Claimant.
15. After dismissal, the Claimant but did not obtain advice in respect of discrimination claims from the Honorary Legal Adviser at the CAB although she could have. She did not approach ACAS until mid-September. I am not persuaded that she has shown that it is just and equitable to extend the time for these discrimination claims.
16. In these circumstances, I must dismiss all her claims on the basis that the Employment Tribunal lacks jurisdiction.

Signed: EJ -Paul Stewart

EMPLOYMENT JUDGE 17 May 2021

DECISION SENT TO THE PARTIES ON
18th May 2021

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FOR SECRETARY OF THE TRIBUNALS