



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr U Black v

Respondents

AND EH Smith (Builders' Merchants) Ltd

JUDGMENT MADE AT A PRELIMINARY HEARING BY SKYPE

HELD AT Birmingham

ON 20 July 2020

EMPLOYMENT JUDGE Hughes

Representation

For the Claimant: In person

For the Respondent: Mr D Northall, Counsel

JUDGMENT

The judgment of the tribunal is that:

1 The claimant's claim for unfair dismissal and other payments (case reference number 1302335/2020) was presented out of time. It was reasonably practicable to present it in time. There is no jurisdiction to hear it. It is hereby dismissed. It follows that the claimant's application to amend to claim automatically unfair dismissal under s103A of the Employment Rights Act 1996 fails because the s103A claim is out of time and there is no jurisdiction to hear it.

2 The claimant's claims for direct race discrimination and victimisation in connection with his dismissal on 22 September 2019 (case reference number 1302335/2020) are out of time but it is just and equitable to allow them to proceed. However, the claimant's application to amend to claim victimisation in respect of the appeal outcome on 28 October 2019 is not permitted.

3 The claimant's application to amend to attach new legal labels (public interest disclosures and detriments) to facts already pleaded in 1307337/2019 and

1305596/2020 is permitted because it is a re-labelling exercise and it is the interests of justice and the public interest for those claims to be heard.

4 The claimant's application for his first claim made on 13 September 2019 (case reference number 1307337/2019) to be substituted by his on-line claim made on 22 September 2019 but not accepted until recently (case reference number 1305996/2020) is not opposed. Case reference number 1307337/2019) is dismissed on withdrawal. For the avoidance of doubt, this does not prejudice the claimant's position in relation to case reference number 1305996/2020 because the on-line version was presented in time and has fuller particulars of claim.

5 These claims are consolidated for hearing. The grounds attached to the on-line claim form plus the amendments permitted in paragraphs 2 and 3 of this judgment, shall be the consolidated grounds of complaint. The respondent is to file one consolidated Response by 10 August 2020. The consolidated claim is listed for a hearing next year and directions are given in a separate Case Management Order.

**Signed by Employment Judge Hughes
Signed on 20 July 2020**

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.