



EMPLOYMENT TRIBUNALS  
London Central Region

Heard by CVP on 20/10/2021

Claimant: Ms F Mohamoud

Respondent: Selfridges Retail Ltd

Before: Employment Judge Mr J S Burns

Representation

Claimant: Mr A Mellis (Counsel)

Respondent: Ms M Clarke (Solicitor)

JUDGMENT

The claim is struck out.

REASONS

1. The above judgment followed an OPH to consider the time-issue. I heard evidence from the Claimant and considered documents in an OPH bundle and a Respondent's skeleton argument.
2. The Claimant was employed by the Respondent as a Sales Associate from 28 July 2007 until her employment ended on 9 October 2020 by reason of redundancy. She has claimed unfair dismissal.
3. The Claimant's employment ended on 9 October 2020. Her claim for unfair dismissal should therefore have been presented by 8 January 2021.
4. The Claimant entered into early conciliation on 28 June 2021 and an early conciliation certificate was issued on 30 June 2021. There was no extension of time pursuant to section 207B of the Employment Rights Act 1996, as the statutory time limit had already expired more than 5 months before the Claimant started early conciliation.
5. Under Section 111(2)(a) of the Employment Rights Act 1996 ("ERA") the claim should have been submitted to the Tribunal within: "*the period of three months beginning with the effective date of termination ("EDT")*" (section 111(2)(a) ERA); unless the Tribunal is satisfied that "*it was not reasonably practicable for the complaint to be presented before the end of that period of three months*", in which case the Tribunal may consider the complaint if it is presented "*within such further period as the Tribunal considers reasonable*" (section 111(2)(b) ERA).

6. The Claimant agreed that her claim was presented out of time but asked for an extension under the above provisions.
7. By way of explanation of the delay the Claimant stated in her witness statement (which she affirmed was true) that she tried once (in December 2020) to initiate early conciliation by contacting ACAS by means of the internet but its website was down. She then phoned ACAS and was told that a form would be sent to her - which however she did not receive. However in her oral evidence the Claimant gave contradictory evidence - stating that she had received a form from ACAS in December 2020 and sent it in. The Claimant was unable to account for this significant inconsistency in her evidence and I regard her as a wholly unreliable witness.
8. Even taking her witness statement on this point at its highest - even if the ACAS website was out of operation this would have been a short-term situation and acting reasonably the Claimant could and should have revisited the website again and submitted her application by that means within the three-month period.
9. The Claimant from an early stage knew of her right to present a claim, and of the requirement to go through ACAS EC, and, on at least one version of her evidence, even sought legal advice on how this should be done, (in late January 2021/early February 2021) before presenting a first ET1 without following or complying with the guidance she had received.
10. The Claimant submitted her first claim on 11 February 2021") which was rejected by the Tribunal on the grounds that the Claimant had not provided an early conciliation number and had wrongly claimed an exemption from early conciliation. The Tribunal's decision was confirmed to the Claimant in writing by a letter dated 28 May 2021.
11. The Claimant then waited a further month before she commenced early conciliation on 28 June 2021. The Claimant says she waited then because she was dealing with a lot in her personal life including the death of an aunt and her father's dementia. Even if that is true, I do not find in the circumstances that those unfortunate matters are an adequate excuse for that further significant period of delay.
12. An early conciliation certificate was issued by ACAS on 30 June 2021 and the Claimant presented to the Tribunal on 2 July 2021 a second ET1, which is the claim the subject of the instant judgment.
13. The burden of proof for establishing that it was not reasonably practicable to present the claim in time is on the Claimant. Time limits should also be adhered to strictly.

14. I find that it was reasonably practicable for the Claimant to have presented the claim in the normal time period and furthermore, once that period had elapsed, the Claimant waited an unreasonably long further period before presenting the second claim. Hence the Tribunal has no jurisdiction to hear the Claimant's claim of unfair dismissal and it is struck out.

J S Burns Employment Judge  
London Central  
20/10/2021  
For Secretary of the Tribunals  
Date sent to parties : 20/10/2021

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