



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case Nos: 118026/2008 & 102379/2006

Held in Edinburgh on 17th December 2019

Employment Judge L Doherty

Ms K Kibble

Claimant

The City of Edinburgh Council

Respondents

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal is that the claims are lodged outwith the statutory time limit in section 129 of the Equality Act 2010, and the Tribunal does not have jurisdiction to consider the claims.

REASONS

1. This was a Preliminary Hearing (PH) in respect of two claims brought by the claimant which had been conjoined. The purpose of the PH was to determine the preliminary issue of time bar.
2. The claimant did not appear, and was not represented at the Hearing. The respondents were represented by their solicitor Miss Hood.
3. The Tribunal was satisfied the Notice of the Hearing had been properly intimated. No reason was advanced to explain the claimant's non-attendance at the Hearing, and the Tribunal decided to proceed in her absence.
4. The claimant presented claims of inequality in pay against the respondents. The first claim was presented on 21st February 2006, and the second claim was presented on 22nd October 2008.
5. At a Preliminary Hearing for case management purposes which took place in May 2018, the claimant was represented by her Trade Union representative, who undertook to confirm whether or not it was accepted in respect of Case Number 118026/2008 (the October 2008 claim), this was a standard case in terms of section 2ZA of the Equal Pay Act (now section 129(4) of the Equality Act 2010). Copies of the relevant legislation were provided to the claimant's representative at that PH.
6. Subsequent to that, it was confirmed that the claimant's case is a standard case.

7. There is information before the Tribunal to suggest that the complaint lodged in February 2006 (Case Number 102379/2006) is anything but a standard case.
8. On the basis of the representations made by the respondents, and the documents before it, the Tribunal was satisfied that the claimant left the respondents' employment on 25th June 2005. This is confirmed by the respondents' HR records, which are produced in the respondents' bundle of documents. Section 129(2) of the Equality Act provides that a complaint of inequality in pay may not be brought in an Employment Tribunal after the end of the qualifying period, and section 129(3) provides that in a standard case, that period is a period of six months beginning with the last day of the employment or appointment.
9. The Tribunal was satisfied that the last day of the claimant's employment with the respondents, from which time starts to run for the purposes of presentation of this claim, was 6th June 2005.
10. Both claims are presented outwith the six month time limit, and therefore the Tribunal has no jurisdiction to consider the claims. The Tribunal has no discretion to extend the time limit in section 129.
11. The effect of this is that the Tribunal has no jurisdiction to consider the claims.

Employment Judge: Laura Doherty
Date of Judgement: 19 December 2019
Date sent to parties: 19 December 2019