



EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case No: 4120678/2018

Held In Glasgow on 19 March 2019

Employment Judge: Robert Gall

Members: Peter O'Hagan
Peter Kelman

Mr MR Binyameen

Claimant
In Person

HMRC

Respondent
Represented by:
Mrs L McKenna -
Solicitor

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The unanimous Judgment of the Tribunal is that the case will proceed to a hearing under reservation of timebar.

REASONS

1. This case was set down for a Preliminary Hearing on 19 March 2019. The point for the Tribunal to determine was whether it had jurisdiction to hear the race discrimination claim. It was said by the respondents that elements of the claim as specified were brought out of time.
2. The Tribunal did not hear evidence. It heard submissions from both parties.
3. This is a record of the Judgment delivered orally after adjournment. It is issued for convenience of parties. As was said at the hearing at time of delivering the Judgment, in terms of Rule 62 of the Employment Tribunals (Rules of Constitution & Procedure) Regulations 2013 written reasons will not be provided unless asked for at the hearing or within 14 days of the sending to parties of the written record of the decision, in other words, this document. No request for written reasons was made at the hearing.
4. It is certainly the case that some alleged acts of discrimination occurred more than three months prior to the claim being presented. There are however

events, which are alleged to be discriminatory, which occurred within the three month period. Any acts said by the claimant to constitute discrimination are denied by the respondents as being of that character.

5. Events which occurred more than three months prior to the bringing of the claim can proceed to a hearing and can be part of the basis of a claim of discrimination. This is so if they are part of conduct extending over a period, the conduct being said to have concluded with an act within the three month period. In this case, allegations made by the claimant are said to have involved events within the three month period.

6. It is, in the view of this Tribunal, impossible for it to determine whether there is linkage between events outwith the timeframe and those within the timeframe. That is a matter which is best determined when evidence has been heard. The alleged events are said to have occurred between December 2017 and July 2108. Ms Fielding and Mr Crampshee are both said to have been involved in different elements of those alleged events. The respondents deny that any discrimination took place. They accept however that some of the events at which discriminatory conduct is said to have occurred took place within 3 months of the date of presentation of the claim. They accept that one such event said to have occurred forms the basis of a claim of direct discrimination and of harassment.

7. The Tribunal unanimously concluded that to determine whether there was conduct extending over a period is something which can be best and more appropriately determined after evidence is heard and the facts are established. A hearing is therefore appropriate. The issue of timebar is reserved. It therefore remains alive and the point will be determined in the Judgment issued after the hearing.

8. It is appreciated that this will mean that there is evidence on a number of incidents subject to timebar then being determined. This Tribunal was clear however and unanimous in its view that it was not in a position to take the view that it could be said there was no connection between the earlier alleged events pled and alleged events which were said to have occurred within time.

9. On that basis therefore the claim will proceed to a hearing under reservation of timebar.

Employment Judge: Robert Gall
Date of Judgment: 20 March 2019
Entered in register: 21 March 2019
and copied to parties