



EMPLOYMENT TRIBUNALS

**Claimant**  
**Ms C Labongo Alum**

v

**Respondent**  
**Thames Reach Charity**

**OPEN PRELIMINARY HEARING**

**Heard at: London South by CVP**

**On: 27 January 2022**

**Before: Employment Judge Truscott QC**

**Appearances:**

**For the Claimant: In person**  
**For the Respondent: Mr T Sheppard of Counsel**

**JUDGMENT on PRELIMINARY HEARING**

The claimant's claim of discrimination was not presented within the time limit imposed by section 123 of the Equality Act 2010 and it is just and equitable to extend the time for the presentation of the claim. Accordingly, the Tribunal has jurisdiction to entertain the claim.

**REASONS**

**Preliminary**

1. This preliminary hearing was fixed on the Order of the Employment Appeal Tribunal in order to determine whether the claimant's claims of disability, sex, race and age discrimination should be struck out as being out of time.
2. The claimant provided an additional statement in advance of the hearing. She also gave further oral evidence. In addition, the Tribunal took into account the evidence given by the claimant at the original hearing on 14 October 2020.
3. The claimant submitted an application for a reconsideration of the judgment issued following the 14 October 2020 hearing by letter dated 3 November 2020. It is date stamped as having been received at London South Employment Tribunal on 5 November 2020. Due to an oversight, it was not sent to the Employment Judge. The Tribunal also took into account the contents of that application.

4. There was a new bundle of documents to which reference will be made where necessary.

## Findings

1. The Tribunal does not repeat the findings in the original judgment as these were not challenged but makes additional findings as follows:

1. The claimant originally submitted her claim by email to londoncentralet@Justice.gov.on 5 June 2019 from an agent in Uganda using the email address agietapatcy2@gmail.com [96].

2. The claimant returned from Uganda between 7 and 9 June 2019 [97]. The EAT finds that it was 9 June 2019 [para 5 of EAT judgment].

3. The Tribunal emailed the claimant on 10 June 2019 to say that the claim had been rejected because the claim could not be validly presented by email [97]. The Tribunal used the email address of the agent in Uganda who forwarded it to the claimant on 11 June 2019.

4. On 11 June 2019, the claimant submitted a claim form without the Early Conciliation number to the London Central Employment Tribunal. She had inserted an incorrect number.

5. By letter dated 13 June 2019 and sent to her by post, the papers were returned to the claimant as the claim was invalid [88].

6. The claimant received this letter on 20 June, added the correct Early Conciliation number to the claim form and the same day took her reply to the post office to return to the Leicester Tribunal [101]. This was where the letter dated 13 June told her to reply. Her reply was sent by first class post.

7. The claim was accepted by the Tribunal on 24 June 2019 [2].

## Submissions

2. The Tribunal received written submissions from Counsel for the respondent and heard oral submissions from both parties.

## Law

3. The applicable law set out in the original judgment is not repeated as it was not challenged on appeal.

4. Without wishing to add to the already extensive number of authorities, the Tribunal also considered what was said in **Wells Cathedral School Ltd. V. Soutar** [2021] UKEAT 2020-000801 unreported.

## DISCUSSION and DECISION

5. The deadline for submitting the claim to the Tribunal was 5 June 2019 which was extended by 16 days to 21 June 2019 by the Early Conciliation procedure. The claim was accepted on 24 June 2019, 3 days late.

6. In her application for reconsideration, the claimant first disclosed to the Tribunal that she suffered from dyspraxia and this is confirmed in an Educational Psychologist's report [88-95].

7. The claimant explained that she resubmitted her ET1 by hand on 11 June 2019 to the London Central Employment Tribunal. She did this because she was aware of the impending time limit. The Tribunal considered that because she suffered from dyspraxia, she did not leave important documents unattended because they might not receive attention. As it did not contain the correct ACAS Early Conciliation number, it was returned by letter dated 13 June. Her dyspraxia may have contributed to the failure to use the correct reference.

8. In her written evidence to the Tribunal, the claimant said the letter had been received by her in the week commencing 17/18 June 2019. In oral evidence, the claimant said that she did not receive the letter until 20 June when she dealt with it immediately. Whilst the Tribunal would ordinarily be very wary of a departure from the written evidence of this importance, the Tribunal accepted the evidence of the claimant. It did so because it was consistent with the urgency with which she dealt with the return of the form on 11 June.

9. The claimant took her response to the post office. In her written evidence, she states that she sent it recorded delivery. In oral evidence she said that she sent the letter by first class post. This is consistent with what she said to the EAT. She said she did not send it for next day delivery because of the cost. The Tribunal accepted that the claimant was suffering difficult financial circumstances at the time which caused it to doubt that the letter was sent by recorded delivery. The Tribunal considers that the claimant sent it by first class post.

10. The claim would have been in time if it had been received the next day on 21 June 2019. 22 and 23 June were respectively a Saturday and a Sunday. The claim was received on Monday 24 June 2019.

11. In considering whether it was just and equitable to allow the claim to proceed, the Tribunal did not take into account the claimant's personal circumstances, save as concerned her dyspraxia as set out in paragraphs 7 and 8 and her financial circumstances in paragraph 9. It noted that the claimant had made several attempts to lodge the claim within time the last of which was posted within time.

12. The respondent faces an unfocussed lengthy claim of different types of discrimination extending over a long period

13. In weighing all relevant factors up, the Tribunal considered that it is just and equitable to extend the time for lodging the discrimination claim. The concern about the state of the claimant's case can, at least to some extent, be mitigated by case management. In this regard, the Tribunal has made some case management Orders separately.

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**Employment Judge Truscott QC**

**Date 31 January 2022**