



EMPLOYMENT TRIBUNALS

Claimant: Mr Luke O’Doherty

Respondent: Iceland Foods Limited

Heard at: London South **On:** 8 June 2022

Before: Employment Judge Cheetham QC

Representation

Claimant: no attendance
Respondent: Ms Kerstie Skeaping (solicitor)

JUDGMENT

1. The Tribunal does not have jurisdiction to hear the complaint of unfair dismissal, as the Claimant does not have sufficient continuity of employment.
2. Although there is reference to a claim for discrimination because of sexual orientation at paragraph 8.1 of the ET1 Claim Form, there is no particularised complaint.
3. The claim is therefore dismissed.

REASONS

1. The Claimant, who is acting in person, did not attend this hearing, which was listed as a telephone Case Management Hearing. The Tribunal tried to reach him several times, but there was no answer and there had been no communication to explain why he might not participate in the hearing. The Tribunal therefore decided to proceed in his absence.

2. The claim is for unfair dismissal, but the Claimant has less than 2 years' service. In his Claim Form, he gave his employment dates as 7 July 2020 to 14 April 2021, so there is no issue that he did not have the requisite continuity of service and that complaint must therefore be dismissed. That is because a claimant needs to have been employed for 2 years to bring that complaint (Employment Rights Act 1996 s.108).
3. There is also a very brief reference in his particulars of claim to the Claimant's sexual orientation and he has ticked the box at paragraph 8.1 of the ET1 Claim Form that refers to discrimination because of sexual orientation.
4. However, it is not clear whether this is an actual complaint or just context, because it has not been particularised at all. The Claimant states that his sexuality was always an issue at work, that he was interrogated about it and that this made him feel uncomfortable. The only specific allegation is that, "*At one point, a colleague who was extremely apologetic afterwards, used a homophobic slur towards me*". However he does not state when the comment was made, who made it and what they said, nor is it clear that he is actually making a complaint against his employer because of this comment.
5. Therefore, the Tribunal does not consider that the Claim Form discloses an actionable complaint, despite the box being ticked for discrimination, as it has not been sufficiently pleaded. For the avoidance of doubt, were it the case that the Claimant was intending to bring a complaint of discrimination because of sexual orientation, it would have no reasonable prospects of success in any event, given the complete lack of detail.
6. The Claimant has also referred to bringing a claim for defamation, but the employment tribunal does not have jurisdiction hear that claim.

Employment Judge Cheetham QC

Date 11 June 2022

JUDGMENT & REASONS SENT TO THE PARTIES ON
Date 14 June 2022

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FOR THE TRIBUNAL OFFICE