



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss F Siphuma

**Respondent:** Pricewaterhousecoopers LLP

## REASONS

(requested by the claimant on 17.8.22)

1. These are the written reasons for the Tribunal's Judgment dated 3 August 2022, sent to the parties on 9 August 2022, striking out the claimant's race discrimination claim.
2. The sole issue for determination at the hearing was whether the discrimination claim should be struck out on grounds that it was presented out of time.
3. Section 123 of the Equality Act 2010 provides that a discrimination complaint must be presented after the end of 3 months starting with the act complained of or such other period as the tribunal considers just and equitable.
4. The case of Robertson v Bexley Community Centre t/a Leisure Link 2003 IRLR 434, CA makes clear that the discretion of the Tribunal to extend time on just and equitable grounds should be exercised exceptionally and that the burden is on the claimant to satisfy the Tribunal that there are reasons why it should exercise its discretion.
5. The claimant gave evidence about the circumstances leading up to presentation of the claim. I also heard submissions from both parties.
6. By a claim form presented on 12 October 2021, the claimant brought complaints of race discrimination against the respondent, her former employer. The last of the alleged discriminatory acts pleaded was the claimant's dismissal, which took effect on 2 June 2021. The primary time limit for presenting the claim expired on 1 September 2021.
7. The claimant was employed by the respondent as an Audit Manager. She has a first degree from the University of Johannesburg and a post graduate diploma in Accounting from University of South Africa. She has a chartered Financial Accounting qualification and has worked in professional environments since 2012. The respondent and the claimant's previous employer, Ernst and Young, are well established top firms in the field of Accountancy. Based on the claimant's academic and professional background, I have concluded that she is someone of more than average intelligence with the ability to research matters that are not within her knowledge, such as commencing employment tribunal proceedings.

8. Following her dismissal on 2 June 2021, the claimant took no immediate steps to seek independent advice and it was not until 2 August 2021 that she contacted the Citizens' Advice Bureau (CAB). The reason she gave for the delay was that she was attempting to appeal her dismissal. However, there is no reason why she could not have done both at the same time. The claimant was told by the CAB that they did not represent at Tribunal. They therefore referred her to a partner legal advice centre. However, due to a conflict of interest, the advice centre was unable to assist the claimant.
9. On 13 August 2021, Alex Lewis of the CAB contacted the claimant to say that he would try to get another solicitor to help her. The claimant says that it was on this occasion that she was advised of the time limit for contacting Acas. At this point, there was just over 2 weeks left of the primary time limit for presenting a claim.
10. The claimant says that she made follow up phone calls to Alex Lewis. She also says that she followed these up with an email on the 30 August 2021. This email was not produced. The only email in evidence, sent within the time limit, is dated 17 August 2021. There is also a chasing email dated 21 September 2021, however that is after expiry of the time limit. Even if there had been a chasing email on 30 August, this was 2 days before the time limit was due to expire, the claimant had not received confirmation that she was going to be assisted and this should have alerted her to the need to take proactive steps to progress the matter.
11. She did not go online to research the process, something which she could easily have done through a google search.
12. The claimant had the equivalent of £15,000 in savings, some of which she could have used to pay for a few hours' worth of legal advice. The claimant suggested that the funds were earmarked for other financial commitments. Notwithstanding, she was in a much better financial position than many litigants in person and therefore had greater options when it came to access to legal advice. It was her choice not to take advantage of these. Instead she took informal soundings from friends who were lawyers, none of whom, it would appear, were in a position to assist with lodging her claim.
13. The claimant submitted that the amount of stress she was under as a result of her dismissal had been underestimated and that this was a factor in the delay. She said that she was in a new country still trying to build contacts and that the job market was not doing well at the time. The fact that the claimant was going through a distressing period because of her dismissal was no different from the general experience of many claimants who are dismissed or who feel that they have been discriminated against. There is no evidence that the claimant's stress was such as to prevent her from putting in her claim.
14. The claimant knew by the 17 August that she had nobody assisting her with her case. That remained the position right up to the 2 September 2021 when the time limit expired. The claimant could have contacted Acas herself in the same way that she had contacted the CAB. Had she done so within the time limit, she would have received the benefit of an extension to the time limit.
15. In the end, the claimant presented her claim without assistance. This is something she could have done that at any point within the time limit.

16. In all these circumstances, I am not satisfied that there are just and equitable reasons for extending time and I therefore decline to do so. It follows that the Tribunal has no jurisdiction to hear the claim and it is accordingly dismissed.

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Employment Judge Balogun  
Date: 7 September 2022