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THE EMPLOYMENT TRIBUNALS

Claimant: Ms. A. Dasilva

Respondent: Children Assisted in a Real Environment Ltd

PRELIMINARY HEARING (OPEN)

Heard at: East London Hearing Centre (by Cloud Video Platform)

On: Thursday 6 October 2022

Before: Employment Judge Hallen

Representation

Claimant: Ms. C. Brook-Ward- Counsel

Respondent: Ms. K. Hosking- Counsel

This has been a remote hearing by CVP which has been consented to by the parties. A face to face hearing was not held because it was not practicable and all issues could be determined in a remote telephone hearing.

JUDGMENT

The Respondent's application dated 5 April 2022 to have the Claimant's claim for unfair dismissal under section 98(1) of the Employment Rights Act struck out under Rule 37 (1) (a) of the Employment Tribunal Rules 2013 on the basis that she does not have two years qualifying service is dismissed.

REASONS

1. The Respondent made an application dated 5 April 2022 to have the Claimant's claim for unfair dismissal struck out on the basis that she did not have two years continuous service pursuant to section 108 (1) of the Employment Rights Act 1996.

2. At the hearing before me I had a bundle of documents from the Claimant made up of 124 pages and a bundle of documents from the Respondent made up of 100 pages. I also had a chronology of events prepared by the Respondent.

3. Prior to the hearing commencing, the parties' counsel informed me that I would not hear any evidence and that the issue of whether the Claimant had sufficient qualifying service to pursue her claim for unfair dismissal under section 98 was to be determined on the submissions and documents presented alone. No directions had been given by the Tribunal as to oral evidence and the parties confirmed that no oral evidence would be presented.

4. After considering the documents and submissions made by the respective counsel on behalf of their clients, I decided that the Respondent's application should be dismissed. Without making any findings of fact, I concluded that upon the documents that I was referred to, the Tribunal considering the substantive claim of unfair dismissal under section 98 (along with the other claims under the Equality Act 201) will have to hear evidence on when the Claimant's employment commenced, what date was the Effective Date of Termination and whether the Respondent was entitled to summarily dismiss the Claimant in the circumstances that it did. Accordingly, in the absence of such evidence, it was not possible for me to allow the Respondent's application and accordingly it was dismissed.

5. The parties indicated that they were working to the directions already given by the Tribunal in order to be ready for the substantive hearing that has already been listed for three days between 27 and 29 September 2023 so they did not need any further directions from me to further assist them.

Employment Judge Hallen

6 October 2022