



EMPLOYMENT TRIBUNALS

Claimant: Mrs Nancy Adisenu

Respondent: Frimley Health NHS Foundation Trust

Heard at: Reading **On:** 6, 7 and 8 September 2022
(Tribunal discussions on 21 October 2022)

Before: Employment Judge Gumbiti-Zimuto
Members: Mrs H Edwards and Mr N Boustred

Appearances
For the Claimants: Ms J Fyle, lay representative
For the Respondent: Mr S Sudra, counsel

RESERVED JUDGMENT

The claimant's complaints of unfair dismissal, direct race discrimination, and victimisation are not well founded and are dismissed.

REASONS

1. In a claim form presented on the 13 April 2021 the claimant made complaints of unfair dismissal and race discrimination. The respondent denied the complaints and stated that the claimant was dismissed because of her conduct.
2. At a preliminary hearing on the 22 February 2022 the issues to be decided in the case were set out by an employment judge.
3. Throughout the claimant has been acting in person or has been assisted by a lay representative. We are grateful to Ms Janet Fyle who appeared at the hearing to assist the claimant.
4. The claimant gave evidence in support of her own case. The respondent relied on the evidence of the Mrs Samantha Thomson, Mrs Joyce Cruse, Ms Emma Luhr and Ms Maxine McVey. All the witnesses produced written statements as their evidence in chief. The Tribunal was also provided with a trial bundle of documents of about 267 pages of documents.

5. The claimant is a Black African woman. The claimant commenced her employment with the respondent on 13 August 2012. The claimant, at the point of her dismissal, was employed as a band 6 midwife.
6. An incident occurred on the 11 September 2019 in which the claimant considered that she had been bullied by Mrs Samantha Thomson, Band 7 Postnatal Lead Midwife. The claimant contacted Mrs Joyce Cruse, Inpatient Matron, informing her that she was bullied by Mrs Thomson in front of colleagues and that this was "*one of the numerous bullying I have to endured from her*". On 28 November 2019 Mrs Cruse met with Mrs Thomson and discussed the claimant's complaint. During the course of the discussion Mrs Thomson agreed that she had raised her voice at the claimant and expressed her regret about her actions towards the claimant. It was recommended that Mrs Thomson attend the Mary Seacole course to develop strategies in leadership.
7. The claimant attended a Mary Seacole leadership course in November 2019. Mrs Thomson was not participating on this course. During this course one of the activities involved the course participants, under Chatham House Rules, talking through a difficulty they had at work as a learning point and to develop strategies for dealing with incidents in the future. The claimant, without identifying Mrs Thomson, spoke about the incident on 11 September 2019. The fact that the claimant under the cover of anonymity (and Chatham House Rules) had raised the 11 September 2019 issue was reported to Mrs Thomson. Mrs Thomson reported to Mrs Cruse that the claimant had been "*badmouthing*" her on the course. It was agreed by Mrs Cruse and Mrs Thomson that Mrs Cruse would speak to the claimant. Mrs Cruse subsequently spoke to the claimant and told her "*To be more careful and mindful to anonymise¹ such discussions in the future*".
8. An incident occurred on the 26 August 2020 as a result of which the claimant was disciplined and eventually dismissed by the respondent. The claimant's account and the respondent's account of the incident in one significant respect differ but are at their core similar. The respondent contends that during the course of this incident the claimant physically assaulted her colleague KB. The claimant denies that she assaulted KB. The incident was witnessed in part by Mrs Thomson who gave an account that supported the conclusion that the claimant had assaulted KB.
9. The incident was reported to Mrs Cruse. Mrs Cruse informed the claimant that the matter would be the subject of an investigation. Under the respondent's disciplinary procedure Mrs Cruse is the appropriate person to carry out the investigation.
10. Statements were obtained from Mrs Thomson and KB. There was no statement taken from the claimant. On 10 September 2020 Mrs Cruse met separately with KB, Mrs Thomson and the claimant. They each gave their

¹ The claimant had anonymised Mrs Thomson, it was one of the other course participants who had guessed that it was Mrs Thomson who was involved in the incident that the claimant spoke about who then disregarded the expected confidentiality and reported matters to Mrs Thomson.

version of the events of the 16 August 2020.

11. On 30 August 2020 events occurred on a ward where the claimant was working, subsequently an issue of complaint was raised about the claimant's communication skills.
12. On 10 September 2020 a complaint from a patient was received about the claimant.
13. On 20 September 2020 a complaint from a patient was received about the claimant.
14. Mrs Cruse became aware of the further complaints involving the claimant, she decided that they require investigation under the Trust's Disciplinary Policy and she added these matters to the existing disciplinary investigation.
15. A further meeting to discuss the allegation of the 20 September 2020 took place with the claimant on the 22 October 2020. Meetings also took place with other persons.
16. On 18 November 2020 Mrs Cruse finalised her report setting out the evidence that she had gathered. The report set out five allegations against the claimant. The fifth allegation was an allegation that the claimant had failed to adhere to trust values.
17. The claimant was invited to a disciplinary hearing on 9 December 2020 to consider six allegations. A further allegation that "Your actions may have breached the NMC code of conduct". The disciplinary hearing was subsequently rearranged to take place on the 7 January 2021.
18. The disciplinary hearing was to be conducted by Ms Emma Luhr, Director of Midwifery. Ms Luhr wrote to the claimant and informed her that she was allocated to work on the Maternity Assessment Centre. This was expressed as being to "*protect both you and the witnesses from any further upset*". The claimant was informed that she was not to attend ward 22 "*under any circumstances either in a professional or personal capacity.*" An instruction was also given that KB was restricted to work on ward 22.
19. At the disciplinary hearing Ms Luhr did not consider the sixth allegation referring to the NMC Code.
20. At the disciplinary hearing the claimant was assisted by her GMB representative. Mrs Cruse attended the hearing to present her findings. KB, Mrs Thomson, DK and CL attended as witnesses. After witness evidence and the claimant's case had been heard, the hearing was adjourned for Ms Luhr to reach a decision.
21. Ms Luhr concluded that on allegation 1, the claimant did on balance of probabilities hold KB by the wrist and that this was unwanted and aggressive action which amounted to a physical assault.

22. In respect of allegation 2 Ms Luhr concluded that there was not substantial evidence to prove this allegation. Ms Luhr was not able to come to any conclusion in respect of allegations 3 and 4, they were not upheld. Mrs Luhr did not come to any conclusion in respect of allegation 5.
23. Despite the fact that the allegations 2, 3 and 4 were not upheld Ms Luhr concluded that there was a pattern related to the claimant's communication and that this fell below the standard expected of her in the role of Midwife.
24. Ms Luhr found that the claimant was guilty of gross misconduct in physically assaulting a colleague and took the decision to dismiss the claimant. The hearing was reconvened, and the claimant was informed that the decision was made to dismiss her. In a letter dated 12 January 2021 the claimant's dismissal was confirmed in writing.
25. The claimant appealed against the decision to dismiss her. The appeal hearing took place on the 10 February 2021. Ms Luhr attended the appeal to present the management case.
26. The appeal was conducted by Ms Maxine McVey, Deputy Director of Nursing. The claimant appealed the decision to dismiss on grounds that reasonable consideration or credibility was not given to the claimant's evidence and too much was given to the evidence presented by the witnesses; and the sanction was very severe in the light of the claimant's previous unblemished service.
27. The appeal hearing was not a re-hearing but to review the fairness of the process carried out, to review any new evidence and to review the sanction applied. Ms McVey concluded that she did not find anything to support the allegations that Ms Luhr had given too much consideration to KB and Mrs Thomson's accounts, or that she had not given reasonable consideration and or credibility to the claimant. On the second ground of appeal, Ms McVey was satisfied that Ms Thomson did take into account the claimant's previously unblemished service with the Trust. Ms McVey considered that the sanction was severe but the claimant had been found to have physically assaulted a member of staff which is extremely serious and not in line with the Trust's values or the standards of behaviour that would be expected from a member of staff. She considered that the decision was warranted given the findings made against the claimant.

The law

28. Section 98 of the Employment Rights Act ("ERA") provides that in determining whether the dismissal of an employee was fair or unfair, it shall be for the employer to show the reason (or, if there was more than one, the principal reason) for the dismissal, and that it is a reason falling within subsection (2). The conduct of an employee is a reason falling within subsection (2).

29. Where an employer has shown a potentially fair reason the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and shall be determined in accordance with equity and the substantial merits of the case.
30. The Respondent must show that it believed the claimant was guilty of misconduct; it had reasonable grounds upon which to sustain the belief; at the stage which it formed that belief on those grounds, it had carried out as much investigation into the matter as was reasonable in the circumstances of the case.
31. It is not necessary that the tribunal itself would have shared the same view of those circumstances.
32. After considering the investigatory and disciplinary process, the tribunal has to consider the reasonableness of the employer's decision to dismiss and (not substituting our own decision as to what was the right course to adopt for that of the employer) must decide whether the claimant's dismissal "fell within a band of reasonable responses which a reasonable employer might have adopted. If the dismissal falls within the band the dismissal is fair: if the dismissal falls outside the band it is unfair". The burden is neutral at this stage: the Tribunal has to make its decision based upon the evidence of the claimant based upon the evidence of the claimant and respondent with neither having the burden of proving reasonableness.
33. The Equality Act 2010 (EQA) provides that an employer must not discriminate against an employee by dismissing him or subjecting him to any other detriment. An employer discriminates against an employee if because of his race he treats the employee less favourably than he treats or would treat others. Race includes colour, nationality ethnic or national origins. Where the employee seeks to compare his treatment with that of another employee there must be no material difference between the circumstances relating to each case.
34. If there are facts from which the employment tribunal could decide, in the absence of any other explanation that the employer contravened the provision concerned the employment tribunal must hold that the contravention occurred. However, this does not apply if the employer shows that it did not contravene the provision.
35. Section 27 EQA provides that a person (A) victimises another person (B) if A subjects B to a detriment because B does a protected act, or A believes that B has done, or may do, a protected act. Subsection (2) of section 27 sets out what is a protected act; bringing proceedings under this Act; giving evidence or information in connection with proceedings under this Act; doing any other thing for the purposes of or in connection with this Act; making an allegation (whether or not express) that A or another person has

contravened this Act.

The claimant's submissions

36. The claimant's lay representative made submissions on behalf of the claimant. The structure of her submissions did not address the issue to be decided in the case in the way a lawyer with experience of employment tribunal proceedings would.
37. It was said on behalf of the claimant that we should note that she was a victim of discrimination and like other victims of trauma "*in an emotional way they go into themselves which is what is happening to [to the claimant].*". We were told that "*You don't see the claimant on a day-to-day basis you don't see her before the incident, you don't see the way she has suffered, you don't see that emotional response to the bad behaviour, to the racist behaviour by some of the staff.*" Where it is said that the claimant was evasive and didn't answer the questions that is not because she wanted to lie or was untruthful, it is because she is a broken person.
38. It was said that the claimant being a lay person has not put it in her witness statement all that she should. It was submitted that notwithstanding this the claimant is a truthful person and we should believe her evidence. Reference was made to the difference in resources between the claimant and the respondent who are represented where the claimant is not. We pointed out to the claimant that we have to decide the case on the evidence before us.
39. As to criticism that the claimant did not complain of discrimination during her employment it was said on behalf of the claimant that she perhaps should have written something at the time, "*but you don't want to write and complain every time, but these things happen to Nancy she was a victim*". It was said that the respondent needs to look at the way it supports employees, it is not practical to expect employees "*to write and say this is what is happening*".
40. It was stated that the respondent treats "*black workers really very badly*". This submission was not referenced to any specific evidence given in this case or another case but was made as a commentary on the claimant's case.
41. It was submitted that the claimant did not attack KB, the incident was a set up by someone. It was submitted that there were differences in the accounts given by Mrs Cruse and Mrs Thomson, there was no specific articulation of where the differences lie. There were submissions to the effect that the account of the incident accepted by the respondent was not credible. The claimant submitted that if the respondent or anyone else felt that the claimant has "*done something so terrible they should have called the police.*"
42. The claimant states that the Tribunal should accept that the claimant was victimised. The way that the claimant used the phrase victimised in submissions was not always intended to invoke the technical meaning

derived from section 27 EQA but in its ordinary non-technical sense evoking the claimant being singled out for unfair treatment.

43. It was submitted that the claimant made complaints about bullying to the respondent but she couldn't articulate what was happening to her as she is not the best communicator. It is further stated that the claimant did not complain of race because she was fearful of being looked upon as an aggressive black woman. The fact that the claimant did not complain of race at the time does not mean it didn't happen, the claimant says that there were racist behaviours towards her. The claimant pointed to the length of her employment with the respondent, 9 years, and it is said in that time the claimant was not promoted, was not developed, whereas the white midwives were developed. The claimant says that it says a lot about the culture of the respondent about how it treats ethnic minorities.²

The respondent's submissions

44. In respect of the claimant's victimisation claim the respondent says that there has to be a protected act done by the claimant or a belief that a protected act has been done. The claimant's evidence was that she did not raise any complaint of discrimination during her employment. There was no protected act and in any event the detriments alleged are all disputed.

45. In respect of the claim of unfair dismissal the claimant has said that unfairness arises from the fact that the sanction was too harsh. The respondent relies on the fact that when it was put to the claimant that the procedure was not flawed, she did not object to this and therefore the claimant has not presented a basis for saying that the process was flawed. Applying the test set out in the case of BHS -v- Burchell (1978) the respondent says that the claimant's case of unfair dismissal has to be dismissed.

46. As to the allegation of direct race discrimination the respondent says that there is in reality no evidence that the characteristic of the claimant race had a significant influence on the treatment of the claimant.

47. The respondent points out that the claims are out of time and the claimant has given no cogent reasons for failing to present the claims in time. All claims are therefore out of time except the claim for unfair dismissal. The respondent states that we should reject the claimant as a credible witness she has been inconsistent, her evidence has been unclear, allegations have been mentioned in the claimant's statement that had not been mentioned previously. In contrast it is said that the respondent's witnesses have been open, robust, unequivocal, they have tried to engage and not been evasive, therefore we should prefer their evidence.

Conclusions

² The claimant's complaint of discrimination about promotion was dismissed on withdrawal by the claimant.

Unfair dismissal

48. What was the reason for the claimant's dismissal? Was it conduct? Ms Luhr states that the reason she dismissed the claimant was because she concluded that the claimant had physically assaulted KB, and that this was a serious matter warranting dismissal as opposed to any lesser sanction. The claimant alleged that the real reason she was dismissed was because of victimisation and or discrimination on the grounds of race.
49. The Tribunal has considered the evidence given by Ms Luhr and we are satisfied that she has shown a cogent case to demonstrate how and why she came to the conclusion that the claimant had on the balance of probability physically assaulted KB. There is no direct evidence to support any conclusion that the claimant's race or that the claimant made an allegation of discrimination against Mrs Thomson was the reason for the claimant's dismissal. The claimant in her evidence has accepted that she never raised the question of race discrimination before she was dismissed. We do not think that the claimant making an allegation of race discrimination could have been any part of the reason why the claimant was dismissed. There is no evidence provided by the claimant which suggests that the claimant's race played any part in the decision made by Ms Luhr to dismiss the claimant. There is however evidence which if accepted, the claimant denies any assault, would tend to show that the claimant physically assaulted KB. We are satisfied that the reason for the claimant's dismissal was because Ms Luhr concluded that the claimant had physically assaulted KB. This was her belief.
50. The Tribunal have considered whether Ms Luhr had the evidence before her that allowed her to come to the conclusion that the claimant had held KB by the wrists in such a way as to amount to physical assault when the claimant's account denied any assault. The accounts given by KB and Mrs Thomson broadly supported each other and if they were accepted, they founded a basis for concluding that the claimant had held KB by the wrists in a way that could be considered a physical assault. It is not for us to decide what we believe or would have believed in the respondent's position, we have to consider whether the respondent had reasonable grounds upon which to sustain its belief.
51. At the stage which the respondent formed the belief that the claimant assaulted KB had it carried out as much investigation into the matter as was reasonable in the circumstances of the case? The Respondent conducted an investigation process followed by a disciplinary hearing where the evidence of those who appeared to be the relevant witnesses was obtained in the way of statements and then in an investigation interview and finally at the disciplinary hearing. The Tribunal is satisfied that the respondent in the procedure it followed adhered to its own published procedure. Further we are satisfied that in the procedure it followed the respondent adhered to the ACAS code of practice. The respondent in our view followed a fair procedure in dealing with the investigation and disciplinary hearing. The evidence that this process produced included a clear basis, if accepted, upon which the

respondent was entitled to conclude that there was a physical assault of KB by the claimant.

52. The respondent came to the conclusion that the claimant was to be dismissed for the physical assault. The claimant says that this was a conclusion that no reasonable employer could arrive at. The Tribunal recognise that this was not a serious assault by any means. However, the respondent was in our view entitled to consider the totality of the circumstances and importantly to conclude that it was an assault. The investigator Mrs Cruse and the dismissal officer Ms Luhr both considered the incident to give rise to a serious issue having regard to the respondent's values. There was found to be a physical touching which was unwanted and the effect of it was to momentarily restrain KB from leaving the room in which she was in with the claimant. There was evidence that there were raised voices which could be heard outside the room where the incident took place. There was the evidence of Mrs Thomson as to what she saw. The claimant and KB were employed to work in maternity hospital setting. The type of aggression found by the respondent in our view could justify a decision to dismiss. Ms Luhr concluded that the claimant had not mitigated her conduct as found by the respondent by showing any reflection on her conduct or by seeking advice from her 'PMA'. All these are matters for the respondent to consider in reaching the decision to dismiss. We do not consider that we can conclude that dismissal was outside the range of appropriate sanction open to a reasonable employer.
53. The Tribunal has also considered the fact that the dismissal was carried out in circumstances where three of the allegations were found not proved. We note that notwithstanding that the allegations 2, 3 and 4 were not proved Ms Luhr formed conclusions adverse to the claimant as a result. Despite the fact that the allegations 2, 3 and 4 were not upheld Ms Luhr concluded that there was a pattern related to the claimant's communication and that this fell below the standard expected of her in the role of Midwife. We have considered this issue carefully and come to the following conclusions. Firstly the conclusion that the claimant physically assaulted KB, as the respondent considered happened, was so serious that notwithstanding the additional finding about the claimant's poor communication the respondent would have been entitled to conclude that dismissing the claimant was the appropriate sanction. Secondly, in making the decision to dismiss the claimant Ms Luhr did not in fact consider the findings about the claimant's communications as either justifying or bolstering the decision to dismiss, it was not a factor that she weighed in the balance so as to determine the appropriate sanction. The dismissal was because of the alleged assault.
54. We have also noted that in the appeal the appeal officer, Ms McVey, considered at the sanction of dismissal and came to the conclusion that dismissal was upheld. In doing so we note that she had not clouded her considerations of the sanction by any conclusions about the claimant's communication.
55. The claimant's complaint of unfair dismissal is not well founded and is

dismissed.

Section 13 EQA, direct discrimination

56. We are required to consider whether the incidents listed in paragraph 7.3 to 7.79 of the list of issues occurred.
57. The claimant complains that on 11 September 2019 there was an incident where Mrs Thomson berated and belittled her in front of colleagues in the middle of the ward. It is not disputed that there was an incident on 11 September 2019. Mrs Thomson is vague and unclear when she deals with this matter in her evidence but it must have been an issue of some significance as it was the subject of discussion between Mrs Thomson and her manager soon after the events.
58. The problem for the Tribunal has been in trying to determine, what is It exactly that happened on that occasion. The claimant's witness statement does not describe the incident. The claimant in her evidence to the Tribunal did not substantially clear matters up. It was put to the claimant in cross examination that she did not mention that she reported bullying to Mrs Cruse as being on the basis of race in her email of 14 September 2019 (p117). It was put to the claimant that when Mrs Thomson spoke to Mrs Cruse, she apologised to Mrs Cruse, the claimant pointed out that she did not apologise to her. The claimant gave evidence that she spoke with Mrs Cruse on several occasions and she was told that Mrs Cruse would put in place measures that would ensure that the claimant was not bullied. The claimant said she was content with this at the time and further admitted that she did not make any complaint about race at the time, the claimant accepts that she did not mention race during her employment with the respondent.
59. The Tribunal is satisfied that there was an incident between the claimant and Mrs Thomson about which the claimant raised a complaint with her manager involving allegations of bullying but there was no mention of race being an issue.
60. The claimant says that there were false allegations of assault made against her in August 2020. The Tribunal is satisfied that there was an incident in August 2020 involving the claimant and KB which was in part witnessed by Mrs Thomson. It is clear that there is a difference between the claimant's view of the incident with that of Mrs Thomson who gave evidence to us about the incident and the version recorded by KB in her statements, nearer the time of the incident, for the purpose of disciplinary investigation and hearing. On the basis of this information, we can see that there is a difference between the versions but are unable to conclude that one version is false and the other true. In our view it is more likely, given that there is a core basis of agreement between the parties about what happened, that they have each given an account of the incident as it is remembered at the time and that the differences are accounted for by the impression that the incident left on each person. We have not been able to conclude that there was any false allegation made.

61. It is accepted that a disciplinary investigation was commenced following the incident on 26 August 2020. It is also a fact that once the investigation began there were further allegations added arising from complaints made about the claimant at about that time such complaints requiring investigation by the respondent.
62. The claimant was required to stay away from ward 22 by Ms Luhr during the investigation period. A similar restriction confined KB to ward 22. This was to avoid the possibility of the claimant and KB having to work together during the investigation.
63. The result of the disciplinary investigation and subsequent disciplinary hearing was the claimant's dismissal. In reaching the decision to dismiss the respondent accepted the account given by Mrs Thomson and KB and did not accept the claimant's exculpatory version of events.
64. In respect of the matters set out in 7.7.3 to 7.7.9, to the extent that they have been proved as set out above, the claimant says she was treated less favourably. The Tribunal consider that the claimant has not shown less favourable treatment in respect of the incident on the 11 September 2019, there is no clear exposition of what happened. In respect of the commencement of disciplinary investigation and the adding of further allegations, we have been unable to conclude that the claimant has been treated less favourably. Where an allegation has been made involving what might be construed as an assault or allegations of improper conduct or practise are made by patients such matter would be expected to be the subject of investigation. There is no evidence that anything different happened in any comparable other occasion. The respondent has demonstrably acted evenly as between the claimant and KB in restricting the places they work so as to avoid them possibility of them having to work together while the investigation was taking place.
65. To the extent that the claimant's version of events was not accepted but the version given by KB and Mrs Thomson was accepted she has shown that she was treated less favourably. The claimant was also dismissed, the reason for her dismissal was conduct she is believed to have been guilty of, namely physical assault. The reason for the less favourable treatment was because the respondent came to the conclusion that the evidence of KB and Mrs Thomson was to be preferred to the evidence of the claimant. There is no evidence which has been put forward that suggests that the claimant's race played a part in these outcomes. The claimant has asserted that race played a part, particularly in her submissions, however she has not identified evidence from which such a conclusion could be drawn. The claimant's African origin and the fact that Mrs Thomson and KB were White British is the only matter which points to race being a factor. However, that is all.
66. If there are facts from which the Tribunal could decide, in the absence of any other explanation that the respondent discriminated against the

claimant on the grounds of race the Tribunal must hold that the contravention occurred. This does not apply if the employer shows that it did not contravene the provision. Where there is merely a difference in race and a difference in outcomes that is not sufficient, without something more, to shift the burden on the claimant to the respondent to prove that it was not because of race.

67. The Tribunal find that there is no evidence from which we can conclude that there is something more than a difference in race and potentially a difference in treatment so that we can conclude that there are facts from which we could conclude that there was prima facie discrimination on the grounds of race. There is no evidence from which we can make any comparison with the way others were treated. We are unable to find that there are facts from which the Tribunal could decide, in the absence of any other explanation that the respondent discriminated against the claimant.

68. The conclusion of the Tribunal is that the claim of direct discrimination is not well founded and is dismissed.

Section 27 EQA Victimisation

69. The claimant accepted that she did not raise the question of race about the Mary Seacole incident. The claimant also accepted that she did not raise any allegations of race discrimination before she left the employment of the respondent. There is no evidence of, or any suggestion by the claimant, that the respondent believed that she had made any complaint about discrimination before the claimant was dismissed. There was no protected act within the meaning of section 27 EQA. The claimant's complaints of victimisation are not well founded and are dismissed.

Employment Judge Gumbiti-Zimuto

Date: 24 October 2022

Sent to the parties on: 28 October 2022

For the Tribunals Office

Public access to employment tribunal decisions:

All judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the Claimant(s) and Respondent(s) in a case.