



THE EMPLOYMENT TRIBUNAL

Claimant

Mr Bahous Benachour

v

Respondent

Inayya Corp t/a Pizza Hut

Heard at:

London South Employment Tribunal

On:

Before:

Employment Judge Martin

Appearances

For the Claimant:

In person

For the Respondent:

Mr Saed - Solicitor

REASONS FOR JUDGMENT MADE ON 24 November 2022

1. The Tribunal held that the Claimant's claim was presented out of time, and it was reasonably practicable for it to have been presented in time and consequently dismissed the Claimant's claim. Reasons were given to the parties at the conclusion of the hearing. These reasons are being given at the request of the Claimant.
2. The Claimant presented his claim for unfair dismissal and breach of contract (unpaid notice pay) to the Tribunal on 9 February 2022. At section 5 of the claim form he ticked the box to say his employment was continuing although in the narrative at box 8.2 he says he was 'fired'. No date for the termination of his employment was provided.
3. The Respondent presented its response on 30 March 2022. In its' response the effective date of termination of the Claimant's employment was given as 4 October 2021. At the hearing the Claimant confirmed this was the date his employment ended.
4. The Claimant contacted ACAS on 4 February 2022 which is more than three months after the effective date of termination of his employment. Therefore, any extra time provided by the early conciliation process does not apply. The Claimant's claim was presented out of time and therefore the issue to be addressed is whether it was reasonably practicable to have presented the claim

in time.

The law

5. Claims for unfair dismissal and breach of contract must be presented within 3 months of the effective date of termination of employment pursuant to S.111(2)(a) Employment Rights Act 1996 (ERA). Tribunals have a discretion to extend the time limit if the claimant can show that it was not reasonably practicable to put the claim in on time and that the claim has been submitted within a reasonable time of it becoming practicable to present the complaint — S.111(2)(b) ERA.
6. What is reasonably practicable is a question of fact and a matter for the tribunal to decide. The burden of showing whether it was reasonably practicable falls on the Claimant. If he can not show precisely why it was that he did not present his complaint fails to argue that it was not reasonably practicable to present the claim in time, the tribunal will find that it was reasonably practicable — *Sterling v United Learning Trust EAT 0439/14*.

The Claimant's explanation

7. The Claimant said that he was talking to the Respondent to find a resolution and that he was not aware that there was a time limit. It was the first time something like this had happened to him. Like talking to him to find a way, not aware time limited, first time happened to me. He said he trusted the Respondent and was waiting to talk to it. He said he was advised by Citizen's Advise ("CAB") to talk to the Respondent. The Claimant first saw CAB first in 2020 and was touch with them up to end of his employment with the Respondent and after. The Claimant has a computer and is able do internet searches. When dismissed told them. When asked questions by the Respondent the Claimant said that people told him about the time limit a few weeks after he was dismissed and gave him advice from their own experience. He maintained that the CAB did not tell him about the time limits applicable in the Employment Tribunal.

My decision

8. I find that it was reasonably practicable for the Claimant to have brought his claim in time. He was in receipt of advice from the CAB for some time prior to his dismissal and continued to receive its advice after his employment was terminated. I find it unlikely that the CAB would not have told him about the time limits, but even if it did not that would not make a difference as ignorance of time limits is not something that would make it not reasonably practicable to have presented his claim in time without something more. The Claimant has not provided any evidence of any other impediment to him presenting his claim in time. The Claimant has a computer and is computer liberate in that he can do internet searches. If he had done a search on unfair dismissal he would easily have been able to find the necessary information regarding time limits.

9. Similarly, the Claimant's suggestion that waiting to talk to the Respondent made it not reasonably practicable to have brought a claim in time is rejected. The Claimant could have brought a claim and negotiated with the Respondent at the same time.
10. The test is the same for both unfair dismissal and for breach of contract. I find it was reasonably practicable for the Claimant to have brought his claims in time and therefore dismiss the Claimant's claims.

Employment Judge Martin
Date: 12 January 2023