



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss G Young

**Respondent:** Wellington for Langley Hall

## PRELIMINARY HEARING BY CVP

**Heard at:** Reading **On: 23 February 2023**

**Before:** Employment Judge Gumbiti-Zimuto

### Appearances

**For the Claimant:** Not attending and not represented

**For the Respondent:** Mr Niall Macpherson Mickel, counsel

## JUDGMENT

1. The application for a postponement is refused.
2. The claim is struck out on the grounds that the Employment Tribunal does not have jurisdiction to consider the claimant's complaints which have been presented outside the time limits for the presentation of complaints.

### REASONS

1. In a claim form date of the 3 of August 2021 the claimant made complaints of unfair dismissal, discrimination on the grounds of disability, a claim for notice pay, and a claim for other payments. The respondent defends the claims.
2. In section 8.2 of the claim form, the claimant stated as follows:

Unfair dismissal after whistleblowing, about professional staff neglect and abuse from management owners and male room leader towards staff and children in the 2020-2021, I reported many incidents to management and room leaders by e-mail and face to face communication all times I was ignored belittled called awful names by David Swindon room leader of captain Hook, danie head of Wellington for Langley Hall and safeguarding lead, Joanne head of nursery management year 2020 – 2021, Sally Eton owner and founder of Wellingtons for Langley hall, Langley hall Upper and lower school, for unfair

dismissals bullying poor treatment neglect to staff and children breaking the human right act for children and young people, breaking the employers safeguarding at work when whistleblowing, breaking children's act, and not protecting it children and staff from abuse unfair treatment bullying, and lie spread been between management and room leaders.”

3. The claimant's employment with the respondent commenced on 8 September 2020, in her claim form the claimant states that she was dismissed on 30 May 2021. It is clear from the information before me that is wrong and in fact her employment ended either on the 29 January 2021, with her resignation or alternatively by receipt of the letter dated 2 February 2021 which informed the claimant that she was being dismissed.
4. The claim form was presented on 3 August 2021 following early conciliation between the 2 August 2021 and 3 August 2021. It is clear that the claimant's complaints have been presented outside of time limits. In respect of all the claims that the claimant wishes to present, time for presenting the claims is three months from the relevant date. The claimant's approach to ACAS early conciliation was more than three months after the termination of her employment.
5. For the purposes of determining jurisdiction at that point it appears to me, from the documents produced by the respondent, and in particular their response that the claimant's complaint, the dismissal of the claimant must have taken place by 9 February 2021. By that date I am satisfied the claimant would have received a letter informing her of her dismissal.
6. On receipt of the respondent's response which denies the claimant's complaints, the claimant produced a document which was sent under an e-mail dated the 15 April 2022 at 12:25. The document begins:

“dear Sir/Madam, I wish to register my objections to the points raised by the ET3 Ground for Resistance as filed by the respondent.”

It then sets out a number of criticisms of the response which was provided by the respondent in this case. It doesn't clarify or expand on the claims which the claimant is making, notwithstanding that the claimant reports this documents be a *“more detailed expansion of my claims”*, it simply doesn't achieve that function.

7. Finally on 25 March 2022, the Tribunal sent to the claimant a standard letter inviting the claimant to confirm the nature of the physical or mental impairment on which she was relying for her disability discrimination case, asking the claimant to provide information about the impact of the impairment on her ability to carry out normal day-to-day activities, for that information to be provided to the respondent together with any medical reports, and on receipt of that information for the respondent to inform the Tribunal whether the issue of disability is contested. The claimant has not complied with that order. I don't know and the respondent doesn't know on what basis the claimant asserts that she is disabled. There has been failure to comply with the Tribunal's order.
8. This case has been listed for hearing today in order for me to determine whether the claim should be dismissed because the claimant is not entitled to bring it if the

statutory time limit has expired. I have been provided with a brief skeleton argument by the respondent. That brief document of 10 paragraphs sets out all that needs to be said about this case. I concur with the respondent that the claims are made out of time. The burden is on the claimant to show why the claim should be permitted to go ahead, why there is jurisdiction to consider the complaints. Nothing has been put forward by the claimant, there is no basis for extending time produced by the claimant. In respect section 111 (2) Employment Rights Act 1996, or section 23 (2) Employment Rights Act 1996, or section 7 Employment Tribunals Extension of Jurisdiction Order 1994 or section 123 Equality Act 2010. The claimant has not provided a basis allowing me to conclude that it was not reasonably practicable to bring a claim within the time limit or that it is just and equitable to extend the time for presenting a complaint.

9. I considered whether, in the absence of the claimant, I should adjourn the hearing today. I decided that the hearing should not be adjourned. My reason for that decision is that although when contacted by the Tribunal today the claimant said that she had made an application for a postponement of today's hearing there is no evidence of such a postponement application having been made to the Tribunal at all. There has been a search for evidence of such an application being made and there is none. Such an application if made was not copied to the respondent. I came to the conclusion that the claimant has not made an application for a postponement, until prompted by a question from the Tribunal staff today who asked whether the claimant was seeking a postponement of the hearing. Also in reaching that decision I took into account the paucity of detail about the matters which kept the claimant away from this hearing, the claimant said she has an alternative appointment relating to her child but the claimant has not provided any detail for me to understand what that appointment is or the significance or importance of it in contrast to these proceedings. I am not satisfied that it's in the interests of justice to postpone this case having regard to the inadequacy of any explanation or the absence prior to today of any application for a postponement.
10. In taking that decision I also have regard to the fact that the claim, as it appears on its face today, is hopeless, it has no prospect of success on any basis. So, for the reasons set out above, the claimant's application for a postponement is refused and the claimant's claim is struck out on the grounds that the employment tribunal doesn't have jurisdiction to consider the claimants complaints which have been presented outside the time limits for the presentation of complaints.

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**Employment Judge Gumbiti-Zimuto**

Dated: 23 February 2023

Sent to the parties on:

2/3/2023

For the Tribunal: NG