



EMPLOYMENT TRIBUNALS

Claimants: Mrs P Mee
Mr D Williams
Ms S Power
Mrs N Davies
Mrs C Gibson

Respondent: Knowsley MBC

JUDGMENT

The claims of Mr D Williams, Ms S Power, Mrs N Davies and Mrs C Gibson are struck out.

REASONS

1. The claims of all four of these claimants have the same issue in common. It is whether the tribunal has the legal power (often called “jurisdiction”) to consider their claims. In each of their cases, the respondent contends that the claim was presented more than 6 months after the claimant’s employment terminated.
2. The tribunal will inevitably find that Mrs Davies’ employment with the respondent ended on 28 July 2010. The respondent has asserted in writing that Mrs Davies employment ended on that date. This assertion was made in response to a case management order dated 9 January 2020. Mrs Davies’ confirmed at a preliminary hearing on 19 July 2023 that her employment with the respondent had ended altogether, and that it ended in the same year as 28 July 2010. She could not recollect the precise date. She has had an opportunity to state whether she disputes that her employment ended on 28 July 2010 in the light of disclosure that the respondent was ordered to provide. She has not disputed the date.
3. Mrs Davies presented her claim to the tribunal on 13 September 2011.
4. The tribunal will inevitably find that Mrs Gibson’s employment with the respondent ended on 26 March 2010. The respondent has asserted in writing that Mrs Davies employment ended on that date. This assertion was made in writing in response to

a case management order dated 9 January 2020. Mrs Gibson confirmed at a preliminary hearing on 19 July 2023 that her employment with the respondent had ended altogether, and that it ended in the same year as 26 March 2010. She could not recollect the precise date. She has had an opportunity to state whether she disputes that her employment ended on 26 March 2010 in the light of disclosure that the respondent was ordered to provide. She has not disputed the date.

5. Mrs Gibson presented her claim to the tribunal on 29 November 2010.
6. The tribunal will inevitably find that Mr Williams' employment ended, at the latest, in January 2012. He has confirmed in writing that he was employed until January 2012. His claim was presented on 10 September 2012.
7. The tribunal will inevitably find that Ms Power's employment ended on 5 September 2008. The respondent has asserted in writing that Mrs Davies employment ended on that date. This assertion was made in writing in response to a case management order dated 9 January 2020. She has had an opportunity to state whether she disputes that her employment ended on 5 September 2008 in the light of disclosure that the respondent was ordered to provide. She has not disputed the date.
8. Ms Power presented her claim to the tribunal on 25 January 2013.
9. The tribunal will, therefore, inevitably find that each claimant's claim was presented after the expiry of six months beginning with that claimant's last day of employment with the respondent.
10. Rule 37 of the Employment Tribunal Rules of Procedure 2013 gives the tribunal the power to strike out a claim that has no reasonable prospect of success.
11. Section 129 of the Equality Act 2010 provides that proceedings on a complaint of breach of an equality clause (an equal pay claim) may not be brought after the end of the qualifying period.
12. That section also provides that, in a "standard case", the qualifying period is the period of 6 months beginning with the last day of the employment.
13. Each claimant's claim appears to be a "standard case" within the meaning of section 130 of the Equality Act 2010.
14. None of the claimants has suggested that this is anything other than a standard case.
15. The Equality Act 2010 does not give the tribunal any legal power to extend the qualifying period.
16. If a claimant's claim was presented after the end of the qualifying period, their claim would still be time-barred even if the delay was entirely due to the fault of the claimant's trade union and not the claimant herself (or himself).
17. None of the claimants therefore have any reasonable prospect of establishing that the tribunal has jurisdiction to consider their claim.

18. Each claimant was given the opportunity to make representations in writing as to why their claim should not be struck out.
19. Each claimant was given the opportunity to request a hearing at which the question of striking out could be decided.
20. None of the claimants requested a hearing.
21. Mr Williams did not make any written representations.
22. Representations were received in writing on behalf of Ms Power. They did not assert any facts which (if proved) could give the tribunal jurisdiction to consider the claim.
23. Representations were received in writing on behalf of Mrs Gibson and Mrs Davies. They did not assert any facts which (if proved) could give the tribunal jurisdiction to consider the claim.
24. The claims are therefore struck out.
25. This decision will undoubtedly leave the claimants with a sense of injustice. The tribunal is not unsympathetic. If the representations they have made are correct, it is not their fault that their claims were presented too late. But that does not give the tribunal the legal power to hear a claim that is time barred.

Employment Judge Horne

31 August 2023

SENT TO THE PARTIES ON
21 September 2023

FOR THE TRIBUNAL OFFICE