



EMPLOYMENT TRIBUNALS

Claimant:
Mr G Harrison

v

Respondent:
Gist Ltd

Heard at: Reading **On:** 20 July 2023

Before: Employment Judge Anstis (sitting alone)

Appearances:

For the Claimant: In person

For the Respondent: Mr R Dunn (counsel)

REASONS

INTRODUCTION

1. These are the written reasons for the tribunal's judgment of 20 July 2023. The judgment was sent to the parties on 3 September 2023 and the claimant requested written reasons within time on 15 September 2023. The request was referred to me on 21 September 2023.
2. At the same time as requesting reasons, the claimant has made an application for reconsideration. That application will be dealt with separately.

REASONS

3. The first point which arises in this hearing is what the claimant intends his claim to be.
4. In the order resulting from the previous case management hearing it is described as being a claim of unfair dismissal and disability discrimination. The disability discrimination claim relates to his dismissal and earlier matters.
5. During the course of this hearing, the claimant said that he had originally intended the other matters as background or context to claims in relation to his dismissal. He had not been aware until the case management hearing that he could complain of anything else short of dismissal. During the course of the case management hearing the employment judge had identified the possibility of other claims, and the claimant had, effectively, gone along with that. However, he told me that on consideration he was content with and preferred his claim to be what he had originally intended to be – a claim of unfair dismissal and disability discrimination in relation to his dismissal, with the

other matters being background rather than claims in their own right. That simplifies considerably the question of time limits.

6. The claimant was dismissed on 17 June 2022. He engaged in early conciliation between 21 September and 11 October 2022, when he submitted his tribunal claim. Everyone agrees that this means that claims in relation to his dismissal are brought outside the standard time limits.
7. Much of the evidence on time limits is not in dispute.
8. The claimant says, and I accept, that at all material times he has known of the existence of employment tribunals and that they have jurisdiction to consider complaints in relation to dismissal. He also knew of ACAS as a possible source of advice on employment matters. From the date of his dismissal he has considered his dismissal to be both unfair and an act of discrimination. He has pursued two internal appeals, and submitted his employment tribunal claim immediately on learning that his final appeal had been unsuccessful.
9. The claimant's primary position was that while he knew of employment tribunals he did not know of time limits until he was told of this by the colleague who had assisted him with an appeal. That colleague was a former union representative. He told the claimant of the three month time limit on 21 September 2022, which was the first the claimant knew of it. By that time his claim was already out of time. He immediately contacted ACAS and was told of the possibility of extending time. ACAS sought early conciliation from the respondent. They notified him once that they had not heard anything and then on 11 October 2022 that the respondent was refusing early conciliation. The claimant immediately submitted his claim.
10. Part of the claimant's case was that he felt that internal processes should be completed before going to the employment tribunal. This is not as such a belief that time limits only ran from the end of an appeal process, as the claimant at that time knew nothing of any time limits. It is more that as a matter of good practice, internal processes ought to be exhausted before looking outside the company. It is well established that awaiting the completion of internal processes does not, of itself, make it not reasonably practicable to bring a claim within time. However, there is more to it than that in this case. The claimant's position is that his anxiety and depression inhibited his ability to research the tribunal process. I accept the basic proposition that it takes less than a minute to find out on the internet about tribunal time limits, but the claimant's position was that one way of managing or mitigating the effects of his anxiety and depression was to concentrate on one thing at a time – in this case the internal process rather than any later ET process. This was a means of limiting the scope of his worries, which might otherwise be limitless.
11. For the avoidance of doubt, this is not a case where the claimant was in any way misled, and while I can understand why the claimant suspects the processes were brought drawn out to defeat his rights, I do not see any evidence

that that was what occurred or that the appeals were being conducted in anything other than good faith by the respondent.

12. In those circumstances the test from the authorities, on the question of reasonable practicality, is whether the claimant ought to have known of the time limits applicable to claims. The claimant's answer to that is that while he could have found out about those, he had no reason to suspect that there were time limits and keeping himself simply to the internal processes while they were ongoing was a coping mechanism to minimise or mitigate the effect of his anxiety and depression.
13. There is no doubt from what I have heard that the claimant has been profoundly affected by anxiety and depression, which are correctly if belatedly accepted to be a disability by the respondent.
14. Unfortunately for the claimant, though, I do not accept that in this case that is sufficient to show that time should be extended on the basis that it was reasonable for him not to know of the time limits. I note that he had the benefit of assistance from his colleague who was aware of the time limits. I also note that on learning of the time limits he was able to take immediate steps to do what he needed to do. I am not underestimating the effect of the claimant's disability on him, but I do not consider that in this case it provides a good reason for him not having made enquiries and not known about the time limits. The unfair dismissal claim must be dismissed as it was reasonably practicable for the claimant to bring it within the normal time limit.
15. The position is different on discrimination, where I can extend time if it is just and equitable to do so. Typically these days that is considered in terms of the relative prejudice to each party. The respondent is able to point to clear prejudice in respect of what had been thought of as the earlier complaints – the members of staff concerned are no longer employed – but there is nothing like that in relation to the dismissal claim. The prejudice is the standard prejudice that a respondent faces a claim it would not otherwise have to, and on the claimant's side that if time is not extended he does not have any claim. In those circumstances I consider it just and equitable to extend time for the disability discrimination claims in relation to the claimant's dismissal.

**Employment Judge Anstis
28 September 2023**

Sent to the parties on: 13 October 2023...

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For the Tribunal Office