



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr Alfred Adu-ansere

v

OCS Group UK Ltd

Heard at: On Paper
On: 8 May 2024
Before: Employment Judge Andrew Clarke KC

Appearances

For the Claimant: None

For the Respondent: Ms P Tailor, paralegal, by letter of 8 March 2024

JUDGMENT

1. The Respondent's application for costs to be paid by the Claimant is refused.

REASONS

1. At a Preliminary Hearing on 19 February 2024 the Claimant's claim for unfair dismissal was dismissed on the basis that the claim had not been presented within the primary limitation period and there was no basis for extending time into the secondary limitation period so as to make the claim one presented in time. Reasons were given orally and written Reasons provided some time later.
2. By letter of 8 March 2024, the Respondent applied for a costs order in its favour pursuant to rule 76 of the Rules of Procedure. It alleged that the claim had not reasonable prospect of success and, for that reason, a costs order should be made in its favour. Detailed grounds for suggesting that a costs order should be made were set out. The letter was sent to the claimant, but he has not responded. I am satisfied that he has had a reasonable opportunity to make representations, hence I have dealt with the application 'on paper' as the Respondent requested.
3. In short, the basis of the application is that the claimant knew of the time limit, could have made his application to the tribunal in time, but chose not

to do so. I accept that this summarises findings which lie at the heart of my original reasoned judgment.

4. I also agree that this means that, subject to any extension into the secondary limitation period being granted, the claim was presented out of time and had no reasonable prospect of success.
5. Of course, that does not mean that a costs order should be made. The use of the word 'may' in Reg.76 gives me a discretion to make such an order. In this case I decline to exercise that discretion in the respondent's favour. The claimant had certainly been told that there was a time limit, but I am not satisfied that he understood that failure to adhere to it would be fatal to any claim he might seek to bring. Indeed, he appeared puzzled by the concept of time limits and there would always be the possibility that the secondary limitation period could be invoked. He believed that his appeal would be successful. That does not excuse his failure to claim in time, but it does go some considerable way towards explaining it.
6. In those circumstances, this application for a costs order is refused.

Employment Judge Andrew Clarke KC

Date:8 May 2024.....

Sent to the parties on: 30/5/2024

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For the Tribunal Office