



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs S Sarkar

**Respondent:** Lyca Media II Limited

**Heard at:** East London Hearing Centre

**On:** 14, 15, and 16 May 2024 (remotely by video)

**Before:** Employment Judge S Shore

**Members:** Ms J Henry  
Mr L Bowman

**Representation**

**For the Claimant:** Mr A Miah (Counsel)

**For the Respondent:** Mr P Michell (Counsel)

## JUDGMENT

The unanimous judgment of the Employment Tribunal is that:-

- (1) The claimant's claim of unfair dismissal under section 94 and the Employment Rights Act 1996 ("ERA 1996") fails. The claimant was not an employee of the respondent as defined in section 230 of the Employment Rights Act 1996. The Tribunal had no jurisdiction to hear the claim because the claim was not presented within the prescribed time limit in section 111(2) of the Employment Rights Act 1996 and the claimant did not prove on the balance of probabilities that it was not reasonably practicable to have brought the claim in time.

- (2) The claimant's claim of breach of contract (failure to pay notice pay) under Article 3 of the Employment Tribunals Extension of Jurisdiction (England & Wales) Order 1994 ("the Order 1994") fails. The claimant was not an employee of the respondent. The Tribunal had no jurisdiction to hear the claim because the claim was not presented within the prescribed time limit in Article 7 of the Order 1994 and the claimant did not prove on the balance of probabilities that it was not reasonably practicable to have brought the claim in time.
- (3) The claimant's claims of direct discrimination because of the protected characteristic of race under section 13 of the Equality Act 2010 ("EqA 2010") fail. The claimant was not an employee of the respondent as defined in section 83 of the EqA 2010. The Tribunal had jurisdiction to hear the claim because the claim was presented within the prescribed time limit in section 123 of the Equality Act 2010.
- (4) The claimant's claims of indirect discrimination because of the protected characteristic of race under section 19 of the Equality Act 2010 fail. The claimant was not an employee or worker of the respondent. The Tribunal had no jurisdiction to hear the claim because the claim was not presented within the prescribed time limit in section 123 of the EqA 2010 and the Tribunal does not find it just and equitable to extend time.
- (5) The claimant's claims of unauthorised deduction from wages (the failure to pay holiday pay) under section 13 of the ERA 1996 fail. The claimant was not an employee or worker of the respondent as defined in section 230 of the ERA 1996. The Tribunal had no jurisdiction to hear the claim because the claim was not presented within the prescribed time limit in section 23 of the ERA 1996 and the claimant did not prove on the balance of probabilities that it was not reasonably practicable to have brought the claim in time.

- (6) The claimant's claim for an award under section 38 of the Employment Act 2002 ("EA 2002") fails. The claimant was not an employee or worker of the respondent. The claimant did not succeed in any claim that would have enabled the Tribunal to make an award.
- (7) As the Tribunal has dismissed all the claimant's claims, there is no requirement to hold a remedy hearing.
- (8) The claimant's claims had no reasonable prospects of success and she conducted the proceedings unreasonably by continuing with them after the respondent sent her costs warnings on 29 April 2024 and 9 May 2024.
- (9) The claimant (the paying party) shall pay the respondent (the receiving party) a contribution to the paying party's costs of £2,000.00.

Employment Judge S Shore  
Date: 16 May 2024