



# EMPLOYMENT TRIBUNALS PRELIMINARY HEARING

**Claimant:** Mrs E Speight

**Respondent:** Ideal Carehomes (Number One) Limited

**Heard at:** By CVP      **On:** 10 June 2024

**Before:** Employment Judge JM Wade

## Appearances

For the claimant: Mr J Townend, lay representative

For the respondent: Miss I Baylis, counsel

## JUDGMENT

The claimant's unfair dismissal complaint is dismissed, it being reasonably practicable for it to have been presented within the relevant time limit. The detriment complaint continues to final hearing unless otherwise disposed.

## REASONS

1. The claimant was dismissed by the respondent, having less than two year's service in a care role. She alleged unfair dismissal and trade union detriment. Today's hearing was to determine the respondent's application to strike out the claims on the basis of time limits and/or merits. I had a short statement today concerning the unfair dismissal time limit case, with some associated documents. The only explanation given by Mrs Speight was an apparent misunderstanding of when employment ended. We did not swear Mrs Speight in because neither Miss Bayliss nor I wished to ask her any questions and were content to take her statement as read.
2. Clarification having been given that the detriment complaint arose on 19 September, it was agreed that there was no time limit issue concerning the detriment complaint. As to the merits, I cannot say the allegation (set out in today's case management orders) as little or no reasonable prospects of success. Its merits will be decided by the evidence.
3. It is not as simple as suggesting to Ms Troy or Ms Colling that the reason to deny an appeal/grievance hearing was not the claimant's short service. The background of the reasons for an apparent change in position from that expressed in the investigation invite letter, and the usual approach of the respondent to short service employees in such circumstances (the respondent

is not an obviously small employer), will be matters of evidence, and I cannot say that evidentially, the claimant's case has little reasonable prospects of success. The Tribunal will be concerned with the sole or main purpose of refusing a review of dismissal with representation, and the claimant's case is that the sole or main purpose was to deter her from making use of trade union services in such an appeal or grievance (which is arguably an "appropriate time").

4. As to the unfair dismissal time limit submission, the law was accurately set out in Miss Baylis skeleton and I do not repeat it here. I had to determine the effective date of termination, and taking into account the letter of dismissal, the claimant's statement for today, and the contract of employment, I have determined the effective date of termination was when that dismissal letter was received, namely 10 August 2023.
5. The ERA time limit would accordingly be 9 November 2023. ACAS conciliation was commenced on 19 October 2023 – in time – and ended on 30 November. The claimant had until 30 December to present her claim (the stop the clock extension expired on 20 December). The claim was presented on 12 January 2024.
6. I ask whether it was reasonable doable for the claim to have been presented in time. The slightly unusual wording of "subject to" payment of notice in the dismissal letter may have given rise to some misunderstanding, but I have to ask whether that misunderstanding was reasonable, and whether it was therefore infeasible to present the claimant before or on 30 December. Given the dismissal letter in one sentence was absolutely clear about immediate dismissal, it was not, in my judgment, reasonable on the part of the claimant or her lay representative, to act as if there was certainty of an effective date of termination in September, and delay. There was no explanation of why, in fact, it was not practicable to have presented on or before 30 December, such as illness or other factor.
7. In those circumstances, it was reasonably practicable to have done so and the unfair dismissal complaint is dismissed.

Employment Judge JM Wade

Date 10 June 2024

JUDGMENT SENT TO THE PARTIES ON

FOR THE TRIBUNAL

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Notes

Public access to employment tribunal decisions (judgments and, where provided, reasons for judgments) is given, in full, online shortly after a copy has been sent to the claimant(s) and respondent(s) in a case. A Practice Direction gives guidance on recording in the Tribunals.