



EMPLOYMENT TRIBUNALS

Claimant: Mr R Phillips

Respondents: (1) Mr Stuart Heron
(2) Mulberry Homes Property Developments Ltd

On: 11 May 2023

Before: Employment Judge Ahmed (sitting alone)

At: Leicester

Representation

Claimant: In person
Respondent: Ms C Moolenschot, Employment Consultant

JUDGMENT AT A PRELIMINARY HEARING

The decision of the Tribunal is that

1. The claim for unfair dismissal has been presented in time and is allowed to proceed.
2. The issue of time limits in relation to the discrimination complaint shall be dealt with at the full hearing.
3. Case management orders for the full hearing are given separately.

REASONS

1. This was a preliminary hearing to determine whether the Claimant's complaint of unfair dismissal was presented in time. There is also an issue as to whether the race discrimination complaint is also out of time but the Respondent sensibly agrees that this issue can be dealt with at the full merits hearing.
2. The Claimant has brought claims against two Respondents: the First Respondent is Mr Stuart Heron as a named individual. The second Respondent is Mulberry Homes whose name has now been amended as above.

3. The effective date of termination in this case was 19 November 2021. ACAS Early Conciliation began on 8 February 2022. The ACAS Early Conciliation Certificate was issued on 21 March 2022. It is agreed that the time limit for bringing a complaint of unfair dismissal expired on 21 April 2022.

4. The first page of the claim form (ET1) contains a series of date stamps. The first has the following stamp: "**CPF E&W**". Beneath that is stamped the date **20 April 2022** and partially over that is another stamp, in a square box, with the word: "**RETURNED**".

5. There is another date stamp on the same page also containing the letters "**CPF E&W**" but this time the date stamp is of **22 April 2022**. The Claim was then processed in the usual way.

6. The following facts emerged in evidence: the Claimant sent his claim form by post. He does not know the address he sent it to but it is likely to have been the address which accepts postal applications at Leicester. He came home one day and found the Claim Form had been returned to him with a note. He telephoned the number on the note and spoke to someone. He cannot remember who it was or which organisation they worked for. He is by his own admission someone who is not very good with paperwork or administration. He was told that what was missing was the postcode for the site where he worked. This was the evidently the address for the Second Respondent. Unfortunately he has not kept a copy of the note he was sent. When one looks at the Claim Form it is clear that the postcode for Mulberry Homes has been added in manuscript. All the rest is in type.

7. Mr Phillips says he added in the postcode for Mulberry Homes and re-submitted the Claim Form. He rushed to the post office and got it sent it by special delivery.

8. It is agreed that if the date of acceptance is 20 April 2022 then his claim is in time. If it is 22 April 2022 then the claim form is one day out of time.

9. I am satisfied that the date stamps on the claim form are from the same organisation and that this organisation was the Customer Contact Centre at Leicester which has been designated as a place where postal applications can be submitted. The reference to "E&W" is most likely to be a reference to 'England & Wales' as of course Scotland has its own Tribunal administration. The date stamps are therefore by effectively the Tribunal administration or on its behalf. It is also clear that the form has been rejected by reason of an administrative rather than a judicial act.

10. I infer that the reason why the Claim Form was returned was because whoever rejected it was of the view that it did not meet the requirements for including each Respondent's address because as it did not contain the Second Respondent's postcode. The rest of the address for the Second Respondent is in typed form so I conclude the rest of the address was always there apart from the postcode.

11. In my judgment it was wrong to reject the Claim Form because it did not include the postcode. The Rules do not require a postcode to be added. There is no rule of law that an address must include a postcode.

12. I am therefore satisfied that the claim was correctly presented on 20 April 2022 and the claim has been presented in time.

13. If I am wrong about that I would be prepared to accept that it was not reasonably practicable for the claim to be presented in time because the only reason why it was not accepted in time was an error by the administration and no fault of the Claimant.

14. The complaint of unfair dismissal is therefore in time and shall proceed.

15. Case management orders for the full hearing are given separately.

Employment Judge Ahmed

Date: 24 May 2023

JUDGMENT SENT TO THE PARTIES ON

12 June 2023

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FOR THE TRIBUNAL OFFICE

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