



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs D Hopkinson

**Respondent:** Sheffield Teaching Hospitals NHS Foundation Trust

**Heard:** at Leeds by CVP

**ON:** 8 April 2025

**BEFORE:** Employment Judge Shulman

## REPRESENTATION:

**Claimant:** In person

**Respondent:** Mr M Bhat, Paralegal

# JUDGMENT

1. The claimant's complaint was not brought before the end of the period of 3 months starting with the last date to which the complaint relates but the employment Tribunal exercising its discretion thinks it just and equitable to extend the period until 3 August 2024.
2. That being the case the Tribunal does not currently apply section 108 Equality Act 2010 (EqA).

# REASONS

## 1. Claims

- 1.1. Direct discrimination – age (several).

## 2. Issues

- 2.1. The issues in this preliminary hearing are set out at paragraph 5.1 of the directions given by the Tribunal on 17 March 2025.
- 2.2. Does section 108 EqA apply?

## 3. The Law

The Tribunal has to have regard to the following provisions of the law and rules drawn from caselaw:

- 3.1. *Section 123(1)(a) and (b) EqA – subject to section 140B proceedings on a complaint within section 120 may not be brought after the end of –*
  - (a) *the period of 3 months starting with the date of the act to which the complaint relates, or*
  - (b) *such other period as the employment tribunal thinks just and equitable.*

The Tribunal has a wide discretion to decide whether or not to extend time. Amongst other things, it has to have regard to the length of and the reasons for delay. It must also consider whether the delay has prejudiced the respondent. It should consider whether the claimant is unaware of her right to make a tribunal complaint or in this case unaware of the time limits and whether the delay was caused by the claimant awaiting completion of an internal procedure which may justify the extension of a time limit.

3.2. *Section 108 EqA*

(1) *A person (A) must not discriminate against another (B) if —*

- (a) *the discrimination arises out of and is closely connected to a relationship which used to exist between them, and*
- (b) *conduct of a description constituting the discrimination would, if it occurred during the relationship, contravene this Act.*

The question here is whether the alleged discrimination arose out of and was closely connected with the prior employment relationship.

4. **Facts**

The Tribunal having carefully reviewed all the evidence (both oral and documentary before it finds the following facts (proved on the balance of probabilities):

- 4.1. The claimant was employed by the respondent as a complaints co-ordinator from 1 April 2012 until her resignation on 3 May 2024. The claimant entered early conciliation on 3 September 2024, but the time limit for making a complaint to the Employment Tribunal expired on 3 August 2024. So when the claimant presented her claim on 7 October 2024 she was two months and four days late.
- 4.2. The parties accept there was conduct over a period ending with the last date of discrimination. For the purposes of section 123 EqA the Tribunal finds the last date of discrimination was 3 May 2024, but it could have been earlier on 5 April 2024.
- 4.3. Today the Tribunal received a document prepared by the claimant setting out her claim entitled *particulars of continuous acts of discrimination*. This sets out, the Tribunal having been through the same with the claimant, 11 complaints of direct discrimination – age, the last of which on that document was on or about 5 April 2024, apart from the date of claimant's resignation.
- 4.4. Before the claimant's resignation the claimant wanted to have an exit interview to give feedback to the respondent on the poor way that the claimant had been treated during her employment. The request for such

an interview was made on 13 March 2024 but the claimant did not get her meeting until 28 April 2024.

- 4.5. The claimant was offered an investigation under the Acceptable Behaviour at Work Policy or alternatively a meeting with a senior employee to discuss her concerns. On 29 April 2024 the claimant elected the former and on the next day Human Resources (HR) said they would ask a member of staff to conduct an investigation.
- 4.6. It took until 24 May 2024 for the claimant to be informed that a David Bassinger, Assistant Facilities Manager, would carry out the investigation.
- 4.7. The claimant attended a meeting with Mr Bassinger on 4 June 2024 to discuss her concerns.
- 4.8. By 24 June 2024 the claimant sought an update and Mr Bassinger told the claimant he was working on the investigation.
- 4.9. The claimant kept chasing the respondent and eventually on 29 August 2024 the claimant received a report which was the result of the investigation. The claimant was not satisfied with it and it did not uphold the claimant's complaints.
- 4.10. There was no right of appeal as the claimant was no longer employed by the respondent.
- 4.11. On 3 September 2024 the claimant started to concentrate on her claim to the Employment Tribunal. The claimant is a graduate of the Institute of Personnel Management, so she knew about discrimination, but she told the Tribunal she did not know about the time limits until 3 September 2024.
- 4.12. As we have said the claimant entered conciliation on 3 September 2024.

## **5. Determination of the Issues**

(After listening to the factual and legal submissions made by and on behalf of the respective parties):

- 5.1. Dealing first with section 123 EqA as I have said the Tribunal has a wide discretion to extend time.
- 5.2. The Tribunal has identified the length of the delay and the reasons for that delay were the claimant's ignorance of the time limit and the length of time it took the respondent to deal with the claimant's concerns and her complaints, which started on 13 March 2024 and ended on 29 August 2024.
- 5.3. Were time to be extended I find that the delay has not unduly prejudiced the respondent. Indeed the respondent did not plead this at all. We have dealt with the claimant's awareness or otherwise of her right to make a Tribunal complaint and her lack of knowledge of the time limit.
- 5.4. The delay was caused by the claimant awaiting completion of the investigation report, which straddled the period before and after the claimant's termination of employment.

- 5.5. In all the circumstances the claimant shall be granted as the Tribunal thinks is just and equitable the period by way of extension ending on 3 August 2024 and starting with 5 April 2024.
- 5.6. There is, therefore, no need to consider whether section 108 EqA applies. Mr Bhat conceded that it does apply. In the view of the Employment Tribunal the events which occurred after 3 May 2024 arose out of and were closely connected with the prior employment relationships. All those events arose out of the claimant's dissatisfaction with the way she had been treated, including the investigation, the investigation report and the lack of ability to appeal.
- 5.7. It is for the claimant to consider the question of how she was treated less favourably in the post-employment arena but if she can then section 108 EqA will offer the claimant support behind that already given in relation to section 123 EqA.

**Approved by Employment Judge Shulman**

Date: 14 April 2025