

# THE INDUSTRIAL TRIBUNALS

CASE REF: 16311/18

**CLAIMANT:** John Kevin Edgar

**RESPONDENTS:**

1. Chief Constable of the Police Service of Northern Ireland
2. Gerry McGrath
3. Kerrie Greer

## DECISION ON A PRE-HEARING REVIEW

The decision of the tribunal is that the claimant has established at least a prima facie case that his claim is within time and that time limitation is therefore not appropriate for a Pre-Hearing Review. This issue can be addressed further at the substantive hearing.

### CONSTITUTION OF TRIBUNAL

**Vice President (sitting alone):** Mr N Kelly

### APPEARANCES:

**The claimant appeared in person.**

**The respondents were represented by Ms Nessa Fee, Barrister-at-Law, instructed by the Crown Solicitor's Office.**

1. This is a claim of alleged disability discrimination (failure to make reasonable adjustments).
2. The claimant was a part-time reserve constable and continues in that post.
3. The claimant alleges that the respondents failed to put in place reasonable adjustments in relation to alternative duties and that that failure continued up to the date on which he lodged the claim.
4. The respondent argued that the claim related to particular incidents which are contained in the claim form and that the claim was therefore out of time.
5. It is prima facie arguable that the alleged failure to provide reasonable adjustments was a continuing failure and that that failure continued up to the date on which the claim was lodged; 16 October 2018. It is therefore prima facie arguable that the claim is within time.

6. This will be a relatively short hearing and this issue is not suitable for separate determination at a Pre-Hearing Review. That will duplicate much of the evidence required in this matter and will increase the possibility of satellite litigation and further delays.
7. The application to strike out the claim at this stage on the ground of time limitation is therefore refused.
8. Time limitation can be addressed further at the substantive hearing of this matter.
9. This is a claim which is now some ten months old. It is therefore urgent with this matter should be heard.
10. The parties are directed to exchange Notices for Additional Information and/or Discovery *by first class post or by email no later than 5.00 pm on 13 September 2019.*
11. Any party in receipt of any such Notice shall reply in full to the other party again *by first class post or by email no later than 5.00 pm on 27 September 2019.*
12. The claimant shall provide to the Crown Solicitor's Office **signed and dated** witness statements in respect of liability and remedy, to include a schedule of loss setting out his alleged financial loss **no later than 5.00 pm on 18 October 2019** *by first class post or by email.* Each witness statement should not exceed 7,500 words.
13. The respondent shall provide **signed and dated** witness statements *by first class post or by email* to the claimant **no later than 5.00 pm on 8 November 2019.** Each witness statement shall not exceed 7,500 words.
14. If disability is still an issue, and if further medical evidence is required, each party may call one medical witness to give evidence orally and not by way of witness statement. The parties should co-operate to ensure that medical witnesses are not detained in the tribunal for longer than is strictly necessary.
15. The hearing is listed **for 2 to 5 December 2019.** Each party should check the availability of witnesses and if any witness is, for good reason, unavailable, they should liaise to agree an alternative listing and that alternative listing should be notified in writing to the tribunal **no later than 6 September 2019.**
16. The Crown Solicitor's Office shall provide four copies of the exchanged witness statements and four copies of the exchanged relevant documentation (without duplication and with an Index) in the Tribunal Office **five working days** before the commencement of the hearing.
17. The tribunal hearing the case will read the witness statements and to the extent necessary parts of the exchanged documentation between **10.00 am** and **11.30 am** *on the first day of the hearing.* The hearing will therefore start at **11.30 am** *on the first day* and at **10.00 am** *on subsequent days.*

18. The parties shall agree between themselves a timetable for the cross-examination and brief re-examination of each witness allowing time for final submissions within the time allotted for hearing.

**Employment Judge:**

**Date and place of hearing: 28 August 2019, Belfast.**

**Date decision recorded in register and issued to parties:**