



EMPLOYMENT TRIBUNALS

Claimant

Ms C Okonji

Respondent

v PMP Recruitment Ltd

PRELIMINARY HEARING

Heard at: London South

On: 9 November 2017

Before: Employment Judge Elliott

Appearances:

For the Claimant: No appearance

For the Respondent: Ms S Cowen, counsel

JUDGMENT

The judgment of the tribunal is that there is no jurisdiction to hear the claim due to the lack of an Early Conciliation Certificate. The claim is struck out.

REASONS

1. By a claim form presented on 14 February 2017 the claimant Ms Chidubem Okonji claims unfair dismissal, marriage or civil partnership discrimination, notice pay and holiday pay.
2. The claimant worked for the respondent from 10 October 2016 to 31 October 2016, a period of 11 days. Her job was as a warehouse operative. The claim is on the face of it out of time.
3. The respondent defended the claims. The respondent is a recruitment business supplying workers to client hirers for temporary assignments. The respondent says that it has no record of employing anyone by the name of Chidubem Okonji. It had a record of employing a work by the name of Barbara Okonji.

The issues for this preliminary hearing

4. Employment Judge Martin considered the matter on 12 October 2017 and directed that a preliminary hearing take place to consider paragraphs 2, 13 and 14 to 16 of the respondent's Grounds of Resistance.

5. Paragraph 2 of the Grounds of Resistance states that the respondent has no record of ever employing someone by the name of Chidubem Okonji. Paragraph 13 raised the respondent's position that there was no Early Conciliation process and paragraphs 14 to 16 raise a time limitation point.

Relevant matters

6. The correct name of the respondent is PMP Recruitment Ltd and the record is amended accordingly.
7. On 12 September 2017 the tribunal wrote to the claimant asking her to send her ACAS certificate to the tribunal on or before 19 September 2017. There was no reply to this letter.
8. The claimant did not attend this hearing, the relevant checks were made.

The law

9. Section 18A of the Employment Tribunals Act 1996 provides as follows:

(1) Before a person ("the prospective claimant") presents an application to institute relevant proceedings relating to any matter, the prospective claimant must provide to ACAS prescribed information, in the prescribed manner, about that matter. This is subject to subsection (7).

(4) If—

(a) during the prescribed period the conciliation officer concludes that a settlement is not possible, or

(b) the prescribed period expires without a settlement having been reached,

the conciliation officer shall issue a certificate to that effect, in the prescribed manner, to the prospective claimant.

(7) A person may institute relevant proceedings without complying with the requirement in subsection (1) in prescribed cases.

The cases that may be prescribed include (in particular)—

cases where the requirement is complied with by another person instituting relevant proceedings relating to the same matter;

cases where proceedings that are not relevant proceedings are instituted by means of the same form as proceedings that are;

cases where section 18B applies because ACAS has been contacted by a person against whom relevant proceedings are being instituted.

(8) A person who is subject to the requirement in subsection (1) may not present an application to institute relevant proceedings without a certificate under subsection (4).

Conclusion

10. Due to the lack of an EC Certificate the tribunal does not have jurisdiction and the claim is struck out.

Employment Judge Elliott
9 November 2017