



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms J McDonald  
**Respondent:** MyCityDeal Ltd (trading as Groupon)  
**Heard at:** London Central Employment Tribunal  
**On:** 16 January 2020  
**Before:** Employment Judge Quill (Sitting Alone)

## Appearances

For the Claimant: In Person  
For the respondent: Mr B Randle, counsel

## JUDGMENT

1. The Claimant intended to bring the following complaints by way of her claim form presented 6 February 2019:
  - a. direct sex discrimination, contrary to section 13 of the Equality Act 2010;
  - b. unfair dismissal (protected disclosure), contrary to section 103A of the Employment Rights Act 1996;
  - c. breach of contract,
2. To the extent that other types of claim are described in the claim form, they are not claims of a type for which legislation has conferred jurisdiction upon an employment tribunal.
3. Having heard full argument from both sides in relation to whether (if the claim form was hypothetically not rejected), there was jurisdiction to consider the unfair dismissal claim and/or the breach of contract claim:
  - a. The claims were not presented within the time limit stipulated by legislation, because it was reasonably practicable for her to have presented the claim within the time limit imposed by the legislation and – furthermore and in any event - she also did not present the claim within a reasonable time thereafter.
  - b. Therefore, the Tribunal has no jurisdiction to hear the complaints of unfair dismissal and/or breach of contract.
4. Having heard full argument from both sides in relation to whether (if the claim form was hypothetically not rejected) there was jurisdiction to consider the sex discrimination claim:
  - a. The Claimant's claim of direct discrimination because of sex was not presented within the time limit stipulated by Section 123 of the Equality Act 2010 and it would not be just and equitable to give an extension of time until 6 February 2019.
  - b. Therefore, the Tribunal has no jurisdiction to hear the complaint of sex discrimination.
5. The claim is rejected because it contains a substantive defect. The substantive defect

is that the claim is one which institutes relevant proceedings, and is made on a claim form which contains confirmation that one of the early conciliation exemptions applies, but no early conciliation exemption does, in fact, apply. The reasons for the rejection are that

- a. The claim is “relevant proceedings” to which the early conciliation provisions apply, in accordance with sections 18 and 18A of the Employment Tribunals Act 1996;
- b. Because the claim is “relevant proceedings”, it may not be brought until the claimant has gone through the early conciliation procedure with ACAS unless one or more of the early conciliation exemptions applies;
- c. In section 2 of the claim form, the claimant did not give an early conciliation number and instead confirmed that one or more of the early conciliation exemptions applies by ticking one of the boxes that come immediately after the question, “*If No, why don’t you have this number?*”;
- d. That confirmation was incorrect in that the claimant ticked the box: “*Acas doesn’t have the power to conciliate on some or all of my claim*”. In fact, ACAS does have the power to conciliate on claims of sex discrimination and unfair dismissal and breach of contract. The claim form did not include any other complaints which are within the employment tribunal’s statutory jurisdiction.
- e. Furthermore, the Claimant had in fact contacted ACAS and obtained from them a certificate - which was issued 6 October 2017 - bearing an early conciliation number. This number was not included in the claim form, and nor was there any reference to the fact that the Claimant possessed this certificate.
- f. The claim is therefore rejected in accordance with Rule 12(2) of the Employment Tribunal Rules of Procedure 2013, on the basis that the claim form is one to which Rule 12(1)(d) applies. A copy of the rejected claim form is included with this judgment.
- g. A claimant has the right, in accordance with Rule 12(3), to apply for reconsideration of the rejection. Some explanatory notes headed, “Claim Rejection – Early Conciliation: Your Questions Answered” are attached. The notes include information about applying for reconsideration of the decision to reject the claim.

**Employment Judge Quill**

Date 27 Jan 2020

JUDGMENT SENT TO THE PARTIES ON

28/1/2020

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FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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