



## EMPLOYMENT TRIBUNALS

**Claimant:** Mr C Smith

**Respondent:** Canal and River Trust

## JUDGMENT

The complaint of **Unfair dismissal** is struck out.

## REASONS

1. By paragraphs 7 and 9 of her order of 10 September 2021 Employment Judge Wade required the claimant to show cause in writing why his claim for unfair dismissal should not be struck out as he did not have qualifying service of 2 years under section 108 of the Employment Rights Act 1996 or to request a hearing.

2. In his correspondence of 5 October 2021, the claimant says that there is no qualifying period to bring an automatically unfair dismissal claim and that if the dismissal is for a reason related to a protected characteristic that would be an automatically unfair dismissal.

3. That is not correct. Section 108(3) of the Employment Rights Act 1996 prescribes those cases in which a qualifying period of 2 years is not required. It does not include the circumstances of a dismissal related to a protected characteristic.

4. The claimant may pursue a complaint that the dismissal was unlawful and discriminatory under section 39(2)(c) of the Equality Act 2010, a claim which has been identified in the Annex to Employment Judge Wade's Order. That is not the same as a claim for unfair dismissal under the Employment Rights Act 1996.

5. In those circumstances there is no jurisdiction to consider the complaint of unfair dismissal.

6. The claimant's remaining claim are listed for hearing on 22 to 25 March 2022.

Employment Judge D N Jones

Date 14 October 2021