



# EMPLOYMENT TRIBUNALS

**Claimant:**  
Mr A Pirzada

v

**Respondent:**  
Debbie Archer

**Heard at:** Reading (by CVP)      **On:** 13 April 2023

**Before:** Employment Judge Anstis (sitting alone)

**Appearances:**

**For the Claimant:** In person

**For the Respondent:** Ms H Smith (solicitor)

## RESERVED JUDGMENT

The claimant's claims are struck out.

## REASONS

### INTRODUCTION

1. This hearing was convened for the following purposes:
  - “1. To identify the legal and factual issues the tribunal will be asked to decide.
  2. To determine whether any of the claimant's claims should be struck out as having no reasonable prospects of success.
  3. To decide whether a deposit order should be made on the grounds that the claimant's claim stand little reasonable prospects of success.
  4. To make any further case management orders to progress the claim and the response.”
2. This hearing was conducted by CVP although the claimant, at his request, attended the hearing by telephone. Having heard the parties' arguments, I reserved my decision.

### THE RESPONDENT

3. The claimant's claim is against Debbie Archer. She is an employee of Reed Specialist Recruitment Limited. It is the position of both Debbie Archer and

Reed Specialist Recruitment Limited that Reed Specialist Recruitment Limited should be substituted for her as the respondent to this claim. In my discussions with him the claimant was clear that he intended and wanted his claim to be against Debbie Archer rather than Reed Specialist Recruitment Limited.

4. It is for him to identify the respondent he intends to claim against, and subject to what follows he is well within his rights to bring elements of his claim against an individual rather than her employer. However, the claimant was also clear that he had never been employed by Debbie Archer, so by his choice of Debbie Archer as respondent it must follow that claims that can only be brought against an employer (or the equivalent person as regards a worker) must be struck out. That means that his claims of unfair dismissal and (to the extent they are brought) wrongful dismissal, breach of contract and unlawful deductions from wages are struck out.
5. I note at this point that it appeared to be agreed between the parties that in the period to which this claim relates the claimant had never worked for or been paid by Reed Specialist Recruitment Limited. In those circumstances it is difficult to see how such claims could have succeeded even if Reed Specialist Recruitment Limited had been the respondent.

#### THE DISCRIMINATION CLAIMS

6. At first sight the claimant's complaints of discrimination appeared substantial and wide-ranging. At various points he had mentioned in documentation claims in respect of his race, religion, disability and sex. During the course of this hearing the claimant disavowed any claims in respect of religious discrimination, and his other discrimination claims were distilled to one or two related points.
7. The fundamental claim was described by the claimant as one of disability discrimination. He says that on learning of his (alleged) disabilities, the respondent deemed him unfit to be able to work in college settings to deliver further education physics lessons. His position was that this was her response to learning of his disabilities, and not to do with the consequences of those disabilities, so it must be a claim of direct disability discrimination.
8. The respondent raises a number of objections to the merits of this claim, including that the claimant was put forward for at least one such job, and had also undergone some form of medical examination with Reed Specialist Recruitment Limited. That was hotly disputed by the claimant, but at this point I do not have to resolve that and should assume in favour of the claimant that that occurred.
9. There are two subsidiary claims, which are that the claimant's race (he describes himself as south Asian) and sex (he is a man) meant that he was not put forward for such jobs by the respondent. He said that he had statistics

showing that south Asian men were underrepresented as teachers in secondary and further education, and that this was what he would rely on as being something from which the tribunal could conclude that there had been race or sex discrimination on the part of the respondent.

10. I had considerable doubts about those sex and race discrimination claims. In the first place they did not sit well with the claimant's allegation that his disability led the respondent to conclude he was not capable of carrying out such work. If that is true that it does not seem to leave much room for a finding that a woman of another race (with the same disabilities) would have been put forward for work. I accept in principle that it is possible for multiple protected characteristics to in combination to contribute towards a disadvantage, or for a case to be plead on alternative bases, but that seemed quite a difficult argument in the claimant's situation.
11. Beyond that, I doubted whether general statistics such as this could properly be something from which the tribunal could conclude that the respondent had committed race or sex discrimination in not putting him forward for such work.

#### TIME

12. The respondent emphasised that the claimant's claims were brought outside the standard time limit for such claims. There does not seem to be any dispute that that is the case. The claim was lodged in September 2022, and it is agreed that the last contact the claimant had with the respondent was in respect of the NTS in November 2021. Although it was the claimant's case that he remained "on the books" with Reed Specialist Recruitment Limited I do not see that it can be argued that any of the allegations of discrimination continued beyond his last contact with the respondent.
13. It is difficult to put a time on when the allegations of discrimination arose. The claimant completed his registration with Reed Specialist Recruitment Limited in December 2020, and if there was a decision by the respondent that he was unfit for work it must have been taken shortly after that. The claimant put it at early 2021, albeit he said that he only suspected that decision had been made in August 2021 (which was his last contact with the respondent prior to November 2021). The race and sex discrimination allegations must be taken to have arisen around the same time.
14. The claimant said the reason why his claim had not been lodged earlier was that he had needed to take time to put together his papers for the claim, particularly given his disability. I do not accept that as a good reason, and it is clear that his claim is many months out of time.
15. For the respondent, Ms Smith said that while there were still documentary records, the claimant had indicated that he wanted to rely on multiple phone

calls he had had with the respondent and the respondent was prejudiced in now having to recollect phone calls that may or may not have happened years ago.

## CONCLUSIONS

16. If there had been no time issues, I would have imposed a small deposit (perhaps £10 for each allegation) in respect of the two allegations of sex and race discrimination. I have set out above my doubts about them, which would have led me to conclude that they had little (but not no) reasonable prospect of success.
17. The question that remains is whether the claimant has any reasonable prospect of success of persuading a full tribunal that it is just and equitable to extend time to allow any of the discrimination claims to proceed.
18. This is not a case where there are said to be a series of actions, one of which is within time and where the question is whether there is a continuing act. That question is typically one that can only be decided at a full hearing of the case. In this case we have single acts of discrimination. The exact date that would apply to them is questionable, but it would be in the first half of 2021 and the claims are a year out of time. No good reason has been given for the delay, and the respondent is able to point to prejudice that it would suffer in defending the claim that would not arise (or not arise to the same extent) if the claims had been brought within time. The prejudice to the claimant is, of course, the loss of the claims.
19. In those circumstances it seems to me that the claimant has no reasonable prospect of persuading a tribunal at a full hearing of the case to extend time on a just and equitable basis. The tribunal time limits are there so that matters can be dealt with in a timely fashion. The claimant's claims are brought a long way out of time with no good reason for the delay. In those circumstances I consider that the balance of prejudice will favour the respondent, and there is no reasonable prospect of the claimant persuading a tribunal at a final hearing to extend time. Because of this, the discrimination claims must be struck out.
20. The hearing previously listed for 8-10 January 2024 will now be cancelled.

## POSTSCRIPT

21. It was the claimant's position that a default judgment should have been entered in this case, and he said that that was his expectation of what would be done at this hearing. He said that he had submitted the necessary papers including a request for default judgment.
22. I explained to the claimant that the tribunal did not have a formal system of default judgments, although rule 21 judgments could sometimes have that effect. The claimant has submitted a number of county court forms to the tribunal, and it may be that that had given him the impression that a default

judgment could be obtained. There did appear to have been some delay by the respondent in replying to his claim, but an extension of time had been granted for the respondent's response and the response had been accepted. In those circumstances there was no scope for a rule 21 judgment to be issued.

**Employment Judge Anstis  
13 April 2023**

Sent to the parties on: 26.04.2023

GDJ  
For the Tribunal Office