EMPLOYMENT TRIBUNALS

Claimant		**Respondent**
Mrs Harinder Singh	**v**	Three Rivers District Council

Heard at: Bury St Edmunds (via CVP)
On: 20 January 2023 (Preliminary Hearing)

Before: Employment Judge M Bloom

Appearances
For the Claimants: In person
For the Respondent: Mr P Edwards, Counsel

JUDGMENT
on
APPLICATION to AMEND

The Claimant's Application to Amend her claim to include a claim of pregnancy discrimination is refused.

REASONS

1. This case came before me by way of an Application made by the Claimant dated 16 October 2022, to amend her existing claim to include additional claims of pregnancy discrimination.

2. At the Preliminary Hearing, the Claimant represented herself and gave evidence. The Respondents were represented by Mr Edwards of Counsel.

3. In determining the Application I have considered the well established legal principles in dealing with amendments. This includes consideration of well known Authorities, including Selkent Bus Company v Moore and a number of subsequent Authorities, up to and including the most recent Employment Appeal Tribunal Judgment in the case of Chaudhry v Cerberus Security. I am reminded that I should take into account all the circumstances around the Application and I should balance the injustice and hardship of allowing the amendment against the injustice and hardship of refusing it. In this regard, I take particular note of the nature of

the amendment; the issue of time limits; and the timing of the Application to Amend.

4. The facts are as follows.

The Facts

5. The Claimant was employed by the Respondent between 2 January 2017 until 6 June 2021. The Claimant resigned from her employment, worked a period of notice and left her employment on 6 June 2021. She notified ACAS of potential claims of race discrimination and constructive dismissal on 2 July 2021. The ACAS Certificate was granted on 21 July 2021 and on 15 September 2021 the Claimant presented to the Employment Tribunal claims of race discrimination and constructive unfair dismissal.

6. In evidence I was informed by the Claimant that she had the advice of her Trade Union throughout that process. She discussed with the Union, not only the potential claims of race discrimination and constructive dismissal, but also potential claims of pregnancy discrimination which form the nature of her Application before me. She did not tell ACAS of the pregnancy matters. The reason for this, as I was told by the Claimant, was due to her mental health at the time. She had difficulty in considering more than one issue at the time. She was on medication for anxiety issues.

7. The allegations of discrimination because of her pregnancy cover a period beginning in August 2019 and ending in February 2020. The Claimant went on maternity leave in March 2020; her son was born on 20 March 2020 and she returned to work after her period of maternity leave in November 2020. She continued to work for eight months until she left in June 2021. She did not raise any issues of potential pregnancy discrimination in two written Grievances that she submitted prior to her resignation.

8. The Claimant received notice of a Preliminary Hearing scheduled to take place on 5 October 2022, on 28 February 2022. It was in February 2022 upon having received that notice that she decided she wished to bring additional claims of pregnancy discrimination. However, she made no Application for any amendment until she raised this before the Employment Judge at the Preliminary Hearing on 5 October 2022. Even then, it appears she did not specify the claims as pregnancy discrimination. It is recorded in the note of that Preliminary Hearing that they were additional claims of race discrimination. However, the amendment to her claim dated 16 October 2022 refers to eight separate allegations which quite clearly consist of allegations of direct pregnancy discrimination.

9. Mr Edwards drew my attention to time limits. He is quite right in his assessment that the Application to Amend to include the new claim of pregnancy discrimination has been submitted some two years and five months after the expiry of the relevant statutory time period in May 2020.

Even if the pregnancy discrimination claims had been included in the original claim presented in September 2021, they would still have been then some 15 months or so out of time.

10. As I have stated quite clearly, the Application to Amend to include claims of pregnancy discrimination are not a minor amendment. They are a substantial amendment consisting of an entirely new head of claim, new facts and cover an entirely different period of time than the allegations already contained in the original claim. There are no documents which would assist either party in supporting the claim or the defence to pregnancy discrimination claims. It will consist of allegations being made by the Claimant and rebuttal of those allegations by one witness to be called on behalf of the Respondent, namely the Respondent's Line Manager at the time Jane Walker. If the Application to Amend were to be granted and those amendments would be determined by an Employment Tribunal at the substantive Hearing of this case in July 2024, it would be almost five years since the events complained of. Considering issues of hardship, it is important to note that in my judgement that it is likely any recollection of Jane Walker to these events would at least be difficult. Insofar as the timing of this Application to Amend is concerned, the Claimant has confirmed that she decided to amend the claim in February 2022. She did not do any research, or ask the Union to help her with regard to how that Application should be dealt with, i.e. should it consist of any formal Application to the Tribunal and / or consideration of time limits.

11. Having considered all of the above points, the Application to Amend the Claimant's claim to include claims of pregnancy discrimination is refused.

2 February 2023

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Employment Judge M Bloom

Sent to the parties on: 24/2/2023

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For the Tribunal Office.