



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr Alfred Adu-ansere

v

OCS Group UK Ltd

Heard at: Cambridge via CVP
On: 19 February 2024
Before: Employment Judge Andrew Clarke KC

Appearances

For the Claimant: In person
For the Respondent: Mr James Boyd, counsel

JUDGMENT

1. The claim for unfair dismissal (being the sole claim made by the claimant) is dismissed. The tribunal has no jurisdiction to hear the claim which was presented outside the primary limitation period. The claimant has failed to persuade the tribunal that it was not reasonably practicable to present the claim within that period.

REASONS

1. The claimant brings a claim for unfair dismissal. The effective date of termination was 17 March 2023. That is an accepted date, the claimant having acknowledged receipt of his dismissal letter by an email of that date.
2. The claimant was represented at the disciplinary hearing which led to his dismissal, by his trade union. The trade union told him of the right to complain to an employment tribunal for unfair dismissal should matters not be resolved satisfactorily to him and also told him of the time limit for making such a complaint. The claimant recalls being told that the period was so many months from dismissal less one day. He cannot now recall the precise figure that he was given for the number of months, but I am satisfied (in the light of his recollection) that what he was told was the method of calculating the three month period following the effective date of termination.
3. It follows that the primary limitation period for bringing such a claim expired on 16 June 2023. In advance of that, the claimant had contacted his local

CAB about the possibility of making a claim to an employment tribunal. They told him that they did not deal with employment claims, but referred him to Acas. He spoke shortly after his dismissal to Acas; he told them that he had put in an appeal and he recalls a discussion of it being perhaps sensible to wait a little to see if the appeal was upheld.

4. He approached Acas a second time around about 20 May 2023 because he had not heard the outcome of his appeal hearing. He did not seek an early conciliation certificate at that stage. He was busy with other matters and hopeful the appeal might yield a favourable outcome. However, as he had heard nothing by 21 June, he notified Acas under the Early Conciliation Scheme and obtained his early conciliation certificate on 27 June.
5. He did not act straightaway to bring a claim before the tribunal. He remained busy with other matters and was still hopeful with regard to his appeal. However, he learned that his appeal had been unsuccessful on 11 July 2023. He ultimately applied to the tribunal alleging unfair dismissal some 10 days later.
6. In accordance with s.111(2) of the Employment Rights Act 1996 the claimant must satisfy me that it was not reasonably practicable for him to make his claim on or prior to 16 June 2023 and, were he to do so, he would then have to show that he had acted within a reasonable period thereafter.
7. I consider that it was feasible for the claimant to make a claim within the primary limitation period. He knew of the right to make such a claim and of the time limit, albeit that he cannot now recall precisely what he was told. In the light of his evidence, I am satisfied that he was told that the time for making such a claim was a period of three months less one day from the day of his dismissal. He could have made such a claim in that period. He was not simply waiting for the outcome of his appeal. He sought and obtained his Acas certificate before he got the result of the appeal.
8. I recognise that until 11 July, when he learned the outcome of the appeal, he had a hope that the appeal might succeed, but the fact that he was someone with an outstanding appeal is just one factor for me to have in mind against the background of all of the other relevant factors in this case. Having heard from him I am satisfied that he was neither someone who thought that he could not apply to the tribunal until he got the result of the appeal or someone who thought that it was simply sensible to wait the outcome of the appeal. He knew he could apply, he had taken the early conciliation steps, albeit after time had expired, but still did not apply when he got his certificate and he did not do so immediately on hearing the outcome of the appeal. At all material times, that is from significantly before the primary limitation period expired, he chose to prioritise other matters.
9. In those circumstances, I am not satisfied that it was not reasonably practicable to present the claim in time. Furthermore, I am not satisfied that even if my initial decision was wrong that it was reasonable for him to have delayed until 21 July to present the claim. I consider that in those circumstances he had waited unreasonably long.

10. Therefore, sympathetic as I am to the fact that he has not had the merits of his claim decided by a tribunal, I consider that the tribunal cannot deal with the claim on its merits because it lacks jurisdiction, the claim having not been presented in time. In those circumstances, the claim must be dismissed.

Employment Judge Andrew Clarke KC

Date: 17 April 2024

Sent to the parties on: 22/4/2024

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For the Tribunal Office

Recording and Transcription

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