

grips with the times in respect of which the claimant had already given evidence. The Tribunal refused his application as by that time it had had a wealth of evidence from the claimant, who had been in the witness box for some 45 minutes, on which the Employment Tribunal was of the view that it could take a view. Mr Taylor claimed that Employment Tribunals in general were biased in favour of employers and the Tribunal did its best to explain its equal duties to both parties.

4. The Law

- 4.1. The Tribunal has to have regard to section 123(1) of the Equality Act 2010. It sets the period of three months to commence proceedings or such other period as the Employment Tribunal thinks just and reasonable.
- 4.2. Generally, the Employment Tribunal has a discretion as to whether or not to extend time. It can have regard to the circumstances of the case and in particular to the items which are set out at section 33(3) of the Limitation Act 1980. Of those items the Tribunal has had regard to the length of and the reasons for the delay on the part of the claimant and the extent to which the claimant acted promptly and reasonably once she knew whether or not to take action.
- 4.3. The Tribunal has also had to consider the Early Conciliation Regulations as regards the calculation of time.

5. Facts

The Tribunal having carefully reviewed the evidence (both oral and documentary) before it finds the following facts (proved on the balance of probabilities):

- 5.1. The Tribunal finds that the effective date of termination was 21 December 2017, that Early Conciliation notification was given on 18 January 2018 and a certificate issued on 25 January 2018. The normal time limit in this case for issuing a claim was 20 March 2018, but as seven days passed prior to the time between notification of Early Conciliation and the issue of the certificate and, disregarding the first day, the Tribunal finds that the time limit for issuing proceedings was 26 March 2018. The claimant did not issue her claim until 12 July 2018.
- 5.2. The Tribunal finds that the claimant became aware of the time limit when contacting ACAS, which she did twice between 18 January 2018 and the end of that month. She also received advice from the Citizen's Advice Bureau in a period between December 2017 and January 2018.
- 5.3. The Tribunal finds that during or very soon after those periods the claimant downloaded a claim form from the internet. At all material times she had access to the internet, whether it was in her own house or that of her parents.
- 5.4. In her claim form the claimant gave as the reason for the delay that she was threatened by a man called Josh and that things would happen to her and her house if she took matters further.
- 5.5. In her evidence the claimant retracted that statement, accepting that the type of behaviour that she described in her claim form was gossip.
- 5.6. As at 26 March 2018 the claimant was seven months pregnant and she had her baby on 20 May 2018. The baby was her second child so she now had two children to look after between 20 May 2018 and 12 July 2018 (and of course

afterwards but that is not relevant to this case). In the period between 20 May 2018 and 12 July 2018 the claimant had various post-maternity appointments, but she accepted that she did have spare time in which to make the application which is now before the Tribunal.

6. Determination of the issues

After listening to the factual and legal submissions made by, and on behalf of the respective parties the Tribunal finds, having regard to the law, as follows:

- 6.1. The delay of 15 and a half weeks from the expiry of the time limit and the presentation of the claim is long.
- 6.2. The reasons the claimant gives, around her security and use of her time, do not weigh favourably against the fact that she took early advice, that she knew there was a time limit early on and that she also, early on, accessed the claim form. Furthermore, she had continuing access to the internet and the fact that, despite being a busy and obviously good mum, she had time to make the application earlier than she did.
- 6.3. The Tribunal also has to take into account the fact that she retracted the only reason given in her claim for delay in filing the claim.
- 6.4. In all the circumstances it would not be just and equitable to extend time for bringing the claim and the claim is accordingly struck out.

Employment Judge Shulman

Date: 25 September 2018