



EMPLOYMENT TRIBUNALS

Claimant: Miss F Pereira Lopes

Respondent: Institute of Cancer Research

Heard at: London Central Employment Tribunal **On:** 13 December 2018

Before: Employment Judge Davidson

Representation

Claimant: in person

Respondent: Ms M Tether of Counsel

JUDGMENT FOLLOWING A PRELIMINARY HEARING

1. This hearing was listed by Employment Judge Deol to consider the following issues:
 - a. whether the decision not to register the claimant's discrimination claim against Allan Thornhill for not having an ACAS conciliation number should be reviewed
 - b. whether the tribunal should exercise its discretion and add Mr Thornhill as a second respondent
 - c. whether the tribunal has jurisdiction to hear the claimant's complaints in light of the limitation periods which apply to these claims.
2. The judgment of the tribunal in relation to these issues is as follows:
 - a. The notes supplied from ACAS of their conversations with the claimant indicate that she failed to notify ACAS that she intended bringing a separate claim against Mr Thornhill. It is apparent that the gist of her complaint against him relates to bullying and harassment. She was unable to articulate her discrimination claim against him other than to object to his treatment of her which she went on to explain as being a response to her challenging him which he does not like. She said that she thought he would not like it if a male or British person challenged him.
 - b. Given the technical failure to obtain an Early Conciliation number and in light of the weak discrimination claim against Mr Thornhill, I see no reason to review the decision not to register the claim against him and I see no reason to exercise my jurisdiction to add him as a second respondent.

- c. The claimant's constructive dismissal claim arises from her resignation on 15 September 2017, which resulted in the termination of her employment with effect from 8 October 2017. After the termination of her employment, she was involved with various internal process and appeals but it is accepted that the Effective Date of Termination was 8 October 2017.
 - d. The claimant contacted ACAS on 10 January 2018 and was issued with an early conciliation certificate in respect of the respondent only on 22 February 2018. She lodged her claim on 8 March 2018.
 - e. The primary time limit in relation to claims arising from her dismissal expired on 7 January 2018. As she was out of time before she commenced early conciliation, the provisions extending the limitation period do not apply.
 - f. The reasons put forward by the claimant for being out of time were that she was only out of time by a short period, she was still going through internal processes and had been advised by ACAS to wait. There is no evidence that ACAS gave her that advice and none of the reasons put forward by the claimant satisfy the test of it not being reasonably practicable to file her claim within the statutory time limit. I therefore find that her unfair dismissal claim is out of time.
 - g. The claimant also complains of unlawful sex and race (nationality) discrimination. The act she complained of took place in March 2017 and ACAS should have been contacted before June 2017. I find that it would not be just and equitable to extend time to allow her discrimination claims to proceed. I take into account the long delay between the date of the incident and the date of the claim, the failure to explain the delay and the lack of any apparent basis for the claim, which is essentially a bullying claim without any evidence of unlawful sex or race discrimination put forward other than the fact that the claimant is female and Portuguese.
3. In conclusion, the claimant's complaints are dismissed because the tribunal does not have jurisdiction to hear them as they were presented outside the relevant statutory time limits.

Employment Judge **Davidson**

Date 13 December 2018

JUDGMENT SENT TO THE PARTIES ON

14 December 2018

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FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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