



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr S Pillay

**Respondent:** St George's University Hospital NHS Foundation Trust

**Heard at:** LONDON SOUTH **On:** 17 December 2018

**Before:** EMPLOYMENT JUDGE PHILLIPS

**Representation**

Claimant: In person

Respondent: Mr Gil, of Counsel

## JUDGMENT

Pursuant to the Employment Tribunal Rules of Procedure 2013, the Claimant's claims for unlawful deduction from wages is struck out for being out of time.

## REASONS

### Background and procedural history

1. The Claimant was employed by the Respondent, latterly as a Sterile Services Department Technician, from 01.02.1991 until his dismissal with twelve weeks paid notice on 12.09.2017, such that his effective date of termination was 04.12.2017. By an ET1 claim form presented on 14.03.2018, the Claimant bought complaints of unfair dismissal, direct race discrimination and an unspecified claim for "other payments".
1. On 28 June 2018, there was a preliminary hearing before Employment Judge F Spencer, who made orders to enable the case to proceed to a full hearing, (which was and remains listed for a hearing commencing on 28 January 2019). As far as the race discrimination claim was concerned, the Claimant was ordered to provide, by 6 July 2018, clear and succinct further particulars of this claim. The Claimant was also ordered to particularise his claim for "other payments".
2. The Claimant complied with the Order to provide further particulars on 6 July,

with a document headed “a list of issues we have experienced under the management of Pauline Chin”. This listed a number of matters relating to Ms Chin, commencing with an incident on 17/12/2016, with the latest matter identified being 29/06/2017. That document also identified a number of matters involving incidents other than Ms Chin, the last of which ended on 30 June 2017. This document also identified three matters in regard to the “other payments, one an allegedly unjustified reduced pay scale in 2003, the second an unpaid overtime payment from 2005 and the third a pay reduction following a period off sick in 2009.

3. By letter dated 20 July 2018, the Respondent made an application in the light of the further particulars supplied, that both the race discrimination claim and the unlawful deduction for wages claim had been presented outside the statutory time limits, on which basis it said the Tribunal did not have jurisdiction to hear those claims.
4. Following Mr Gil’s submissions on the out of time nature of the race discrimination claim, Mr Pillay clarified that he was not wanting to bring a race discrimination claim. Rather he confirmed that his complaint was about general unfair treatment, but not discrimination. On that basis, it was not necessary for me to make a ruling on the out of time nature of the race discrimination claim, which was voluntarily withdrawn by the Claimant.
5. As far as the “other payments” claims were concerned, Mr Gil pointed out that the particulars set out three separate matters, dating from 2003 (reduced pay scale), 2005 (overtime payment) and 2009 (sick payment). There was nothing to suggest the impact of these was continuing. Mr Gil submitted that no explanation had been given for the delay in making these payments – the Claimant did say he had sent a letter in July 2011 complaining about these matters (which he said was ignored) but it appeared no further efforts had been made to pursue these matters. Mr Gil said these claims were seriously out of time, and it was clearly reasonably practicable for these claims to have been brought earlier.
6. The time limit for presenting a claim for unlawful deduction of wages (ERA 1996, s 13) is three months starting with the date of the deduction, or within such later reasonable period, if it was not reasonably practicable for the claim to have been presented in time. On any basis, but being generous, at the latest from July 2011, it was apparent the Claimant could have brought a claim in respect of these various unpaid wages matters. No explanation was provided by him for the very long delays in raising these, other than that management had ignored his attempts. On my analysis, it was (1) reasonably practicable for the claims in respect of these matters to have been presented in time; but (2) in any event, they were not brought within such further reasonable period of time.

7. On that basis, the Claimant's claim for "other payments" is out of time, and is struck out as the tribunal has no jurisdiction to hear it.

---

Employment Judge Phillips  
Date: 17 December 2018