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EMPLOYMENT TRIBUNALS

Claimant: Mr Andrew Hobbis

Respondent: Arqiva Ltd

Heard at: Birmingham **On:** 14 August 2019

Before: Employment Judge Britton

Representation

Claimant: In person

Respondent: Miss R Kaght (Counsel)

JUDGMENT

The claim is struck out.

REASONS

1 The Claim was presented on 22 April 2019, whilst the claimant was still employed by the respondent. The effective date of termination was 6 June 2019. Within the Claim Form the claimant indicated that he was pursuing a claim for 'other payments' and set out particulars, which consisted of a claim for expenses incurred in relation to travel and accommodation whilst working for the respondent at Crawley Court which is approximately 130 miles from the claimant's home address.

2 The Claim for breach of contract was not accepted because the claim had been presented prematurely. The tribunal does not have jurisdiction to entertain an employee's contract claim unless it is presented within the period of 3 months beginning with the effective date of termination of the contract giving rise to the claim, article 7, Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994.

3 The Claim that was accepted by the Tribunal was in relation to an allegation that there had been an unlawful deduction from wages. However, the substance of the Claim is in fact a claim for unpaid travel and accommodation expenses. The Tribunal does not have jurisdiction to deal with an unlawful deduction from wages claim in this instance because the sums claimed by the claimant are not 'wages'.

4 The meaning of 'wages' is set out within section 27 of the Employment Rights Act 1996 which states, at sub section 2(b) that 'any payment in respect of expenses incurred by the worker in carrying out his employment' is excluded from the definition of wages.

5 The claimant was given the opportunity to make representations and he submitted that although he had put his case on the basis that he was owed unpaid expenses, the real substance of his Claim is for compensation for having been bullied into re-locating by the respondent. I explained to the claimant that even if that was so, and that such a claim could be discerned from his Claim Form, the Tribunal would still have no jurisdiction because that type of claim would be breach of contract and fall foul of article 7 as aforesaid (i.e. it had been presented to the Tribunal prematurely).

6 The claimant was given the opportunity to take advice as I indicated a willingness not to make a decision today, to enable him to take advice about attempting to show cause why a strike out order should not be made. The claimant declined this offer and indicated a preference to have the matter dealt with today.

7 In my judgement, the claim should be struck out because, for the reasons aforesaid, the Tribunal does not have jurisdiction to hear it.

Employment Judge Britton
26/09/2019