



EMPLOYMENT TRIBUNALS

Claimant: P Berko

Respondent: Mitie Limited

Heard remotely:(London Central)

On: 29 November 2021

Before: Employment Judge Henderson

Representation

Claimant: Mr T Beyenbenwo (Solicitor)

Respondent: Ms T Hand (Counsel)

JUDGMENT

1. The claim shall be amended to include:
 - A direct race discrimination claim (under section 13 Equality Act 2010 (EqA)) that the claimant's dismissal on 19 December 2019 was because of his race (Black African British), the claimant says that white colleagues (hypothetical comparators) would have not been treated so harshly. The claimant also says that his job was subsequently given to a white colleague (LL) who is the actual comparator;
 - A direct race discrimination claim (under section 13 EqA) that the respondent "turned a blind eye" to complaints from the claimant in September 2019 that his manager had shouted at him and that he believed this was because of his race. There were no actual comparators cited.
2. The respondent maintains that both these claims have been brought outside the relevant time limits (section 123 EqA). The claimant says they form part of continuing acts. The issue of whether the Tribunal has jurisdiction to hear these claims shall be part of the Final Hearing listed in this matter (for June/July 2022).
3. The respondent's application that the claimant's direct race discrimination claim relating to the respondent's failure to give him (and other black colleagues) pay rise was refused on the basis that neither side had provided

the relevant evidence to enable the Tribunal to determine that matter. The claimant again maintained that this treatment formed part of a continuing act. The issue of whether the Tribunal has jurisdiction to hear these claims shall be part of the Final Hearing listed in this matter (for June/July 2022).

4. I gave oral reasons for my decisions on these issues at the Hearing. Both parties confirmed that they did not need detailed written reasons.
5. The claimant withdrew any claims for Automatically Unfair Dismissal and Indirect Race Discrimination. Insofar as these claims were properly pleaded, they are dismissed.

Employment Judge **Henderson**

Date 29 November 2021

JUDGMENT SENT TO THE PARTIES ON

29/11/2021.

FOR THE TRIBUNAL OFFICE

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