



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr. Habib Miah

**Respondent:** Cognizant Worldwide Limited

**Heard at:** London Central ET (by video/CVP)      **On:** 21 July 2022

**Before:** Employment Judge Tinnion

**Appearances:** For Claimant: In person  
For Respondent: Ms. S. Logie, Solicitor

## JUDGMENT

1. The Claimant's claim of unfair dismissal under ss.94-98 of the Employment Rights Act 1996 is struck out under Rule 37(1)(a) (no reasonable prospect of success).

## REASONS

2. At the Preliminary Hearing for Case Management on 21 July 2022 (**PHCM**), the Claimant confirmed (a) he seeks to bring a claim of 'ordinary' unfair dismissal against the Respondent under ss.94-98 of the Employment Rights Act 1996 (in addition to numerous other claims) (b) he accepts that when his employment ended, he had less than 2 years' continuous employment with the Respondent.
3. At the PHCM, the Tribunal pointed out that an unfair dismissal claim under ss.94-98 of the Employment Rights Act 1996 requires a claimant to have a minimum period of not less than 2 years' employment – the Claimant was referred to s.108(1) of the Employment Rights Act 1996, which it was clear he was unfamiliar with.
4. At the PHCM, the Claimant was not willing to withdraw the claim, but was unable to identify any reason why this basic requirement should not be applied to him. The Claimant confirmed he wished to make written representations to the Tribunal under Rule 37(2) before the Tribunal decided whether to strike out this claim under Rule 37(1)(a) (no reasonable prospect of success), and was given time after the PHCM to do so.
5. The Claimant's submissions on the issue were contained in an email he sent the Tribunal on 8 August 2022 at 12:41. The entirety of the relevant passage of that email stated as follows (*verbatim*):

*“105 Redundancy.*

*(1) An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if—*

*(a) the reason (or, if more than one, the principal reason) for the dismissal is that the employee was redundant,*

*(b) it is shown that the circumstances constituting the redundancy applied equally to one or more other employees in the same undertaking who held positions similar to that held by the employee and who have not been dismissed by the employer, and*

*This subsection applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one specified in paragraph (3) or (6) of regulation 28 of the Transnational Information and Consultation of Employees Regulations 1999 (read with paragraphs (4) and (7) of that regulation).]*

*Race Relations Act 1968*

*1968 CHAPTER 71*

*For the purposes of this Act a person discriminates against another if on the ground of colour, race or ethnic or national origins he treats that other, in any situation to which section 2, 3, 4 or 5 below applies, less favourably than he treats or would treat other persons, and in this Act references to discrimination are references to discrimination on any of those grounds.*

*(2)It is hereby declared that for those purposes segregating a person from other persons on any of those grounds is treating him less favourably than they are treated.”*

5. The Tribunal is satisfied the Claimant’s representations above do not provide any legal or factual basis for concluding that the requirement of at least 2 years’ continuous employment in order to bring a claim of unfair dismissal under ss.94-98 of the Employment Rights Act 1996 do not apply in his case.
6. Because the Claimant does not dispute the fact he was employed by the Respondent for less than 2 years, the Claimant’s claim of unfair dismissal under ss.94-98 of the Employment Rights Act 1996 has no reasonable prospect of success, and is struck out under Rule 37(1)(a).

Signed	EJ Tinnion
Date of signature:	11 August 2022
Date sent to parties:	12 August 2022