



EMPLOYMENT TRIBUNALS

Claimant

Mr T Mahenga

v

Respondent

Chelsea and Westminster Hospital NHS
Foundation Trust

Heard at: London South Employment Tribunal On: 1 August 2022

Before: Employment Judge Norris, sitting alone (via CVP)

Representation:

Claimant – In Person

Respondent – Mr B Jones, Counsel

PRELIMINARY HEARING JUDGMENT

1. The Claimant's claim of direct race discrimination (2300087/2021) was presented out of time in relation to two complaints: the variation of his employment contract and an alleged failure to investigate his grievance. It would not be just and equitable to extend time and those complaints are accordingly struck out. For the avoidance of doubt, neither party is prevented from referring to these alleged events as background in their evidence to these proceedings.
2. The Claimant's claim of direct race discrimination in relation to two other complaints (failure to investigate a complaint against Mr N Wright and creating a redundancy situation) are said to have taken place as part of a continuing act that ends within time (27 October 2020 and 22 October 2020 respectively). Those two complaints accordingly proceed. No finding is made as to whether the events complained of took place or accordingly whether those complaints are in fact in time.
3. The Claimant's claim of unfair dismissal was presented in claim 2300087/2021 lodged on 8 January 2021. The Claimant was given notice in March 2021 and his employment ended on 28 April 2021. Accordingly, the Claimant's claim was not presented within a period of three months beginning with the effective date of termination contrary to section 111(2)(a) Employment Rights Act 1996 and the Tribunal does not have jurisdiction to hear it. It is accordingly struck out.

4. The Claimant's claim of breach of contract in relation to a claimed entitlement to contractual enhanced redundancy pay did not arise and was not outstanding on the termination of the Claimant's employment. Accordingly, the Tribunal does not have jurisdiction to hear it under Article 3 Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994 and it is struck out.

Employment Judge Norris

Date: 1 August 2022

Note: *Reasons for the decision having been given orally at the hearing, written reasons will not be provided unless a written request is received from any party within 14 days of the sending of this record of the decision.*