



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms M Gregory

**Respondent:** Emmaus Catholic Academy Trust

**Heard at:** Manchester (remotely; by CVP)

**On:** 14 November 2022

**Before:** Employment Judge K M Ross (sitting alone)

## Representatives

For the claimant: In person

For the respondent: Mr P Menham (Solicitor)

# JUDGMENT

The judgment of the Tribunal is that:

1. The claimant's claim for unfair (constructive) dismissal pursuant to section 95 and section 98 Employment Rights Act 1996 and/or the claimant's claim for a discriminatory unfair constructive dismissal pursuant to section 13 Equality Act 2010 cannot be heard because the Tribunal does not have jurisdiction to do so.
2. The claimant presented her claim on 21 June 2022. However, the claimant did not resign until 27 June 2022. The ACAS early conciliation certificate is dated 1 June 2022. Accordingly, the claimant presented her claim before time starts to run for the purposes of section 111 Employment Rights Act 1996 and the purposes of section 123 Equality Act 2010.
3. Accordingly, the claimant's claim for unfair (constructive) dismissal pursuant to section 95 and section 98 Employment Rights Act 1996 and section 13 Equality Act 2010 is struck out.
4. The claimant's remaining claims, five allegations of direct race discrimination and/or harassment, will proceed to the listed hearing on **11, 12 and 13 April 2023** at Manchester Employment Tribunal before an Employment Judge sitting with two non legal members.
5. The claimant's allegations of race discrimination, namely:

- (1) The Head Teacher changed the claimant's rota in January 2021 so that at playtimes the claimant was put on the rota from Monday to Friday, leaving her without a comfort or coffee break;
- (2) The Head Teacher distracted the claimant and asked her to return to work during a video remote court appointment on 3 March 2021;
- (3) The Head Teacher enquired about WhatsApp updates the claimant had issued during a childcare absence on 21 July 2021;
- (4) In October 2021 the Head Teacher told the claimant to record a child protection incident on CPOMS when the claimant had not witnessed it; and
- (5) In December 2021 when the claimant requested to change her working days so she could attend university her request was refused by the Head Teacher.

were presented out of time, but it was a course of conduct and I exercise my discretion to allow the claims to proceed outside the time limit.

6. The claimant was permitted to amend her claim to include allegations (4) and (5) which were not recorded within the original claim form. The claimant was refused permission to amend her claim to include a sixth allegation, that the governors had failed to progress her grievance presented on 30 May 2022.

Employment Judge K M Ross

Date 18 November 2022

JUDGMENT SENT TO THE PARTIES ON

21 November 2022

FOR THE TRIBUNAL OFFICE

**Note**

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

**Public access to employment tribunal decisions**

Judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.