



EMPLOYMENT TRIBUNALS

Claimant: Mr B. Saleh

Respondent: RT Decorators and Builders Ltd

**London Central
Employment Judge Goodman**

31 January 2022

JUDGMENT

The claims of unfair dismissal and breach of contract are dismissed.

REASONS

1. The claim form was presented to the tribunal on 27 October 2022 claiming unfair dismissal and failure to pay notice.
2. The tribunal wrote to the claimant on the 2nd of December pointing out that he lacked the two years service required to bring an unfair dismissal claim and asking him to reply by the 23rd of December 2022, otherwise this claim would be struck out.
3. The respondent, which until then had not been sent the claim form, responded on the 13th of December 2022, that this was a vexatious claim, because it had already been decided by Employment Judge Sullivan on 19th of July 2022. In that claim (2200362/22) the claimant was awarded £5,127.54 in arrears of wages and holiday pay.
4. The claimant wrote to the tribunal on the 9th of December 2022 confirming he did not have two years service, and stating that he had asked Employment Judge Sullivan to make an award for not receiving his notice pay when dismissed, but had been told it was not part of the claim. I rely on the claimant's information for this as I have not been able to find written reasons, and there may have been none if neither side requested them. He said that he was claiming now because he had thought before he would not, in the interests of finality, but he had not been paid the sum that employment judge Sullivan had awarded.
5. The employment tribunal wrote to the claimant at my direction on 15th of December saying:

You have claimed unfair dismissal. You have already been sent a letter from the tribunal (2 December) asking why this claim should not be struck out because you did not have the two years service required to claim unfair dismissal. The tribunal has not yet had your reply. You have also claimed for notice pay after your employment was terminated on 1 November 2021. There are other difficulties with this claim.

6.

The first is that you have already brought a claim against the respondent (2200362/22) for wages and holiday pay due on termination of employment on 31 October 2021. Employment Judge Sullivan gave judgment in this claim on 19 July 2022. There is a rule of law that you are expected to bring all claims arising from the same event or set of facts at once, and not bring additional claims once judgment has been given. On the face of it, any notice pay claim was, or should have been, brought and decided with the claims for wages and holiday pay.

The second difficulty is that claims must be brought within three months of the act complained of. Your notice pay claim is nearly eleven months late. The tribunal only has jurisdiction to consider this late claim if you can show that it was not reasonably practicable to present it in time.

The tribunal is considering striking out your second claim (2208226/22) because of these difficulties. If you wish your claim to continue, you are ordered to write to the tribunal by 3 January 2023 setting out (1) why you could not or did not include a notice pay claim in 2200362/22, and (2) the reasons why it was not reasonably practicable to present claim 2208226/22 in time. These reasons will be considered by a judge, either on the basis of your written representations or at a hearing, who will decide whether the tribunal has jurisdiction to hear your claim or whether it should be struck out.

Alternatively, you can write to say you wish to withdraw your claim.

*If you do not reply at all **by 3 January 2023** your claim will be struck out under rule 38.*

7. This letter was in fact sent twice. The second time was on 19th of December. The claimant replied on the 20th of December that he had already responded on the 9th of December. Nothing more has been heard from him.
8. Unfair dismissal and breach of contract claims have to be presented to an employment tribunal within three months of the act complained of, unless it is shown by the claimant that it was not reasonably practicable to present it in time, and that it was presented within a reasonable time thereafter.
9. I conclude:
 - (1) the unfair dismissal claim is dismissed because the claimant lacks qualifying service and the tribunal therefore has no jurisdiction to hear it.
 - (2) the claim for notice pay is dismissed because it is out of time, and the claimant has not shown that it was not reasonably practicable to bring it in time, and probably has little prospect of showing that it was not reasonably practicable when he was able to present the claim that was heard by employment judge Sullivan. In any case, it is an abuse of the process having regard to the rule in Henderson v Henderson, because a litigant is expected to bring all his claims at once, and not vex the respondent with successive claims about the same matters, arising, in this case, from his dismissal.
10. The hearing on 9th of February will not take place.
11. The claimant will have been sent a link in the letter sending him the Judgment to a document explaining how to go about enforcing payment of an award where a respondent does not pay voluntarily. He should look at this to see what to do if he has still not been paid the award in his first claim.

Employment Judge Goodman

Date: 31st Jan 2023

JUDGMENT SENT TO THE PARTIES ON

01/02/2023

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FOR THE TRIBUNAL OFFICE

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