



EMPLOYMENT TRIBUNALS

Claimant: Ms R Ogedi-Uzokwe

Respondent: Oxleas NHS Foundation Trust

PRELIMINARY HEARING

Heard by video

On: 5 July 2022

Before: Employment Judge Corrigan

Appearances

For the claimant: Mr A Kamara, Consultant

For the respondent: Ms C Ibbotson, Counsel

JUDGMENT

1. The unfair dismissal complaint was presented out of time and the tribunal does not have jurisdiction to hear it.
2. The unfair dismissal complaint is therefore struck out.

REASONS

3. The Claimant was dismissed on 24 February 2021. It was clear at that point she was welcome to re-apply in the future, but the relationship was at an end unless she did so. She had an RCN rep at that meeting.
4. It was clear from the letter dated 25 February 2021 confirming dismissal pp119-121 that redeployment was actively under consideration up to that decision but not afterwards as the letter ended in the same terms as meeting.
5. The claimant appealed. In the appeal letter the date of dismissal was incorrectly stated to be 25 February 2021. The claimant's witness statement for the appeal put the date of dismissal as both 25 February and 24 February in different places.

6. It is clear from the wording of the appeal that the claimant had had either the assistance of the union or a lawyer at that stage as it is expressed in legal language. She gave evidence that she had the help of a lawyer at some stage but was vague as to when and why.
7. There is no suggestion in the appeal that redeployment was still being considered.
8. The claimant then contacted ACAS on 24 May 2021 prior to the appeal outcome which was sent on 25 May 2021. Conciliation ended on 2 July 2021 and the claimant put her claim in on 15 July 2021.
9. The Claimant has not given much evidence about her thinking during this period, saying that she cannot remember. She did speak to her union representative – who has access to legal advice (as mentioned during the appeal meeting)- and she did speak to a lawyer. She is vague about when she did this and when she knew of the tribunal deadline. She cannot explain the delay in putting in her claim after 2 July 2021. She accepts she is able to do online research but says she has not done any in respect of time limits. She has not been able to give any evidence about becoming aware of having put the claim in late, which I would have expected her to be able to do as it is so significant.
10. Despite what she said in her witness statement the claimant accepted in oral evidence no one told her that they were still considering redeployment during the appeal process. She didn't wait for the appeal to end before putting in her claim suggesting she was aware she needed to take action by a specific date. She hasn't said it, but I consider it likely that there has been a mistake about the deadline, either by the claimant or by her advisers. I consider this can be inferred from her vague answers and the fact that the dismissal date in the appeal (p122) is wrongly stated to be 25 February 2021 and in the subsequent statement the date is ambiguous with both 24 February 2022 and 25 February 2021 referred to. I consider it likely that a view was taken at some stage that the relevant deadline was 24 May 2021, counting from the dismissal letter date or the date wrongly recorded in the appeal (25 February 2021). This makes sense as the Claimant took action then, even though she had not yet received the appeal, and has then proceeded as if she had the ACAS extension to the time limit and put her claim in on 15 July 2021. If she had contacted ACAS within the time limit she would have had that extension.
11. It follows that it was reasonably practicable for the claim to have been submitted in time (had a mistake not been made about the date).

Employment Judge Corrigan
18 July 2022