



EMPLOYMENT TRIBUNALS

SITTING AT: LONDON SOUTH

BEFORE: EMPLOYMENT JUDGE FRANCES SPENCER

BETWEEN: Ms M D Mariscal CLAIMANT

AND

Argos Limited RESPONDENT

ON: 17th September 2018

Appearances

For the Claimant: In person
For the Respondent: Mr. Zovidavi, counsel

JUDGMENT

The Judgment of the Tribunal is that:

- (i) The Tribunal has no jurisdiction to hear the Claimant's complaints of age and sex discrimination which were presented out of time;
- (ii) The Claimant's complaint of disability discrimination is struck out as having no reasonable prospect of success;
- (iii) The Claimant's claim of race discrimination shall proceed to a full hearing. A separate case management order in respect of this is enclosed.

REASONS

1. The case had been listed for a Preliminary Hearing to consider:
 - a. whether to grant the Claimant's application to amend her claim;
 - b. whether any of the claims should be struck out on the grounds that they have no reasonable prospect of success or, alternatively, whether the Claimant should be required to pay a deposit as a condition of pursuing any or all of her complaints on the grounds that they had little reasonable prospect of success; and
 - c. Case management, of applicable.

2. At an earlier Preliminary Hearing some of the issues had been identified and directions had been given for the provision of further particulars. Orders had also been made for the provision of medical evidence and a disability impact statement. Although the Claimant had done her best to comply with those directions, the further particulars and the impact statement which had been received were not in a form which provided the necessary clarity.
3. In relation to the complaint of age and sex discrimination the Claimant's claim related to a single comment made by a senior manager in around 2014 or 2015. This was considerably beyond the time limit for the presentation of claims, and there was no clear reason presented as to why the Claimant had not presented (or had not been able to present) a complaint sooner. Given the lengthy lapse of time I concluded it would not be just and equitable to hear the complaint out of time.
4. In relation to the complaint of disability discrimination the Claimant relies on a condition of stress and depression. The medical information which she provided stated that she had been diagnosed with mild depression and anxiety in August 2017. The Claimant had been off sick from work from mid July until the end of December 2017. Further particulars provided under the heading disability discrimination did not assist with identifying how the Claimant put her claim.
5. I asked the Claimant to tell me what she was complaining about under this head of claim and she told me that her complaint was threefold. First, the Respondent took too long to deal with her grievance, secondly the Respondent failed to offer her therapy or meetings with Occupational Health for some time and, thirdly, the Respondent did not keep in touch or offer support while she was off sick. She had felt ignored and they did not contact her to see how she was especially when she had raised a grievance. They had failed in their duty of care. It did not appear to me that any of these complaints were complaints which fitted into the legal framework of claims of disability discrimination and as such I concluded that they had no reasonable prospect of success.
6. The Claimant's complaints of race discrimination were clearer. I have set these out in the separate case management order.

Employment Judge F Spencer
18th September 2018