



EMPLOYMENT TRIBUNALS

Claimant: Mrs G Sowden

Respondent: Optimal Recruitment Solutions Ltd

HELD at Sheffield by CVP

ON: 13 July 2023

BEFORE: Employment Judge Brain

REPRESENTATION:

Claimant: In person

Respondent: Miss M Stead, Director

Mrs H Naylor, Operations Director

JUDGMENT AT PRELIMINARY HEARING

The Judgment of the Employment Tribunal is that:

1. It is just and equitable to extend the limitation period to 21 March 2023 for the presentation of the claimant's claim brought under the Equality Act 2010.
2. The Tribunal has no jurisdiction to consider the claimant's complaint of unfair dismissal brought pursuant to the Employment Rights Act 1996 upon the basis that:
 - 2.1. The claimant does not have the two years of qualifying service necessary to bring the claim; and
 - 2.2. The claim was presented outside the limitation period in section 111 of the 1996 Act in circumstances where it was reasonably practicable for her to have presented the claim in time.
3. The claimant's complaints for breach of contract pursuant to the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994 and that the respondent made an unauthorised deduction from her wages brought pursuant to the 1996 Act were presented within the relevant limitation periods. (*This finding applies only to the claims which relate to commission for work which the claimant says was undertaken by her where the entitlement to a commission payment crystallised in September 2022 and was payable in the October 2022 pay run*).

4. The claimant's complaints brought under the jurisdictions referred to in paragraph 2 in respect of commission payments where the entitlement crystallised prior to September 2022 were presented outside the limitation period in circumstances where it was reasonably practicable for them to have been brought in time.
5. The claimant's complaint that she was wrongfully dismissed as the respondent summarily terminated her employment on 21 September 2022 in circumstances where she was not liable to summary dismissal was brought outside of the limitation period in the 1994 Order in circumstances in which it was reasonably practicable for that claim to have been brought in time. Accordingly, the Tribunal has no jurisdiction to consider the claim.
6. Optimal Recruitment Solutions Ltd are joined into the proceedings in substitution for Optimal HR Services Ltd.

Employment Judge Brain

Date: 25 July 2023

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.