



EMPLOYMENT TRIBUNALS

Between:

Claimant: Mr I Maxim

Respondent: Kuehne + Nagel Limited

**Heard at London South Employment Tribunal on 4 October 2017 before
Employment Judge Baron**

Representation:

Claimant: The Claimant was not present nor represented

Respondent: Saara Idelbi - Counsel

JUDGMENT AT A PRELIMINARY HEARING

It is the judgment of the Tribunal that the claims for arrears of pay be dismissed.

REASONS

- 1) On 31 July 2017 the Claimant presented a claim form to the Tribunal. He ticked the boxes in section 8.1 of the claim form to indicate that he was bringing claims of unlawful race discrimination, and for arrears of pay. In section 8.2 of the claim form he stated that he was making claim for statutory sick pay and company sick pay for the period from October to December 2015.
- 2) The Respondent presented a response denying that there was any liability to the Claimant, and averring that the Tribunal had no jurisdiction to consider the claim as the Claimant had brought similar claims in case number 2302771/2016 which had been determined against the Claimant.¹
- 3) The Claimant had presented case number 2302771/2016 to the Tribunal on 22 November 2016. In section 8.2 of the claim form he referred to arrears of statutory sick pay for 2014 and 2015 without providing any further details. That claim was dismissed by Employment Judge Wallis by a judgment dated 23 March 2017 on the ground that the claim was presented outside of the statutory time limit of three months (subject to an

¹ The case number was wrongly stated to be 23023771/2016.

extension for the ACAS early conciliation process) and that it had been reasonably practicable for the claim to have been presented in time.

- 4) My reasons for dismissing the claims in these proceedings are as follows:
- a) To the extent that there is any duplication of claims between case numbers 2302771/2016 and this claim, then the matter has already been judicially determined;
 - b) To the extent that any of the claims in these proceedings were not included in claim 2302771/2016 then the Claimant should not be allowed to pursue them on the basis of the principle in *Henderson v. Henderson*;
 - c) In any event the claims are well out of time as on the most liberal interpretation of time limits the claims should have been presented to the Tribunal by mid-April 2016 whereas they were not presented until July 2017 and the Claimant did not attend the hearing to explain why it had not been practicable to present the claims any earlier.

Employment Judge Baron

11 October 2017