



# THE EMPLOYMENT TRIBUNAL

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**SITTING AT:** LONDON SOUTH

**BEFORE:** EMPLOYMENT JUDGE MARTIN

**BETWEEN:** Miss Jennifer Smith Claimant  
and  
The Commissioner of Police of the Metropolis  
Respondent

**ON:** 09 November 2017

**APPEARANCES:**

**For the Claimant:** Did not attend

**For the Respondent:** Ms Murphy - Counsel

**JUDGMENT AT PRELIMINARY HEARING**

The decision of the Tribunal is that:

1. The Tribunal does not have jurisdiction to hear the Claimant's claims as they have been brought outside the primary time limit and it is not just and equitable to extend time.
2. The Claimant's claims are struck out.

**REASONS**

1. Oral reasons are given at the conclusion of the hearing, the reasons are being provided in writing as the Claimant did not attend. The hearing was listed to start at 10 am, however the hearing did not commence until 10.15 to give the Claimant time to attend if she was running late. There was no communication from the Claimant by the time the hearing started. The hearing therefore took place in her absence.
2. The Claimant presented a claim to the Tribunal on 21 August 2017, claiming unfair dismissal, disability discrimination and unauthorised deductions from wages. The claim was accepted in respect of the disability discrimination claim and unauthorised deductions from wages claim with the unfair dismissal claim being rejected. The Respondent defended the claim and in its grounds of resistance applied for a preliminary hearing to strike out the Claimant's claims on the grounds that her claims were out of time by some nine years and estoppel. The basis of their application was clearly set out in this document.
3. The preliminary hearing was listed for today and notice was sent on 21 August 2017 to the parties. It was sent to the Claimant at the address given in her claim form. The Claimant received the notice of hearing, as evidenced by her correspondence with the Tribunal. The Claimant sent numerous emails to the Tribunal. The Claimant appeared to be requesting a postponement in the letters of 22 and 23 October 2017 although her correspondence generally was not clear. On the basis that the Claimant may have been requesting a postponement of this hearing, Employment Judge Elliot considered her request and refused it. The reasons being that the correspondence from the Claimant was hard to follow and the Tribunal could not deal with proceedings in other jurisdictions. It records that it was not clear whether the Claimant was in fact seeking a postponement of the hearing on 9 November 2017 but that if she was, the application was refused. This was sent to the Claimant by email on 30 October 2017 at 14:51.
4. On 30 October 2017 at 19:18, the Claimant sent a further email to the Tribunal requesting a postponement of this hearing, which was followed up by another email on 1 November 2017. The Claimant's request for postponement was refused by Employment Judge Elliott on 3 November 2017 and the Claimant was advised that if she was not fit to attend the hearing she must provide medical evidence. This was sent by email to the Claimant on 3 November 2017. No medical evidence was forthcoming. I am satisfied that the Claimant received the notice of hearing on the basis of the correspondence from the Claimant seeking a postponement and that she was aware that her requests for a postponement had been refused.
5. The Claimant's claim to this Tribunal relates to her employment with the Respondent which ceased on 19 June 2008 when she resigned. Prior to her resignation, and she had brought a claim for disability discrimination relying on CPRS and other conditions as her disability. This came before

Employment Judge Hall-Smith on 11 March 2008, when he struck the Claimant's claim out on the grounds that she was not a disabled person as defined by the Equality Act 2010.

6. The disability which the Claimant relies on for the purpose of this claim is the same as for the previous claim when it was held she not a disabled person. The time period involved in the current claim is just a few months after the time in relation to the matter, which became before Employment Judge Hall-Smith. The Claimant's claim is substantially out of time - by some nine years. The Tribunal does have discretion to extend time from the grounds that it is just and equitable to do so. However, it is for the Claimant to give reasons as to why the Tribunal should exercise its discretion. The Claimant did not attend to give reasons and did not provide written submissions either.
7. The Respondent attended and submitted that at the time of the preliminary hearing before Judge Hall-Smith on 1 February 2008 (while she was still in service) the Claimant had support from her union, the Police Federation. It submitted that the Claimant was in a position to present a further claim following the resignation on 19 June 2018 within the three-month time limit, had she wished to do so.
8. Although the Claimant was not present, counsel for the Respondent considered what arguments the Claimant could have brought to support her request for an extension of time based on it being just and equitable. The Respondent informed me that from August 2008 to March 2011 the Claimant worked for the Wiltshire police as a civilian and brought two Employment Tribunal claims against it. Both these claims were struck out at a preliminary hearing. The first in June 2012 (ET 1400626/2012) was a claim for unfair dismissal and there is a more recent judgment in October 2017 for which written reasons are not yet available. The Claimant has referred to this litigation at the Bristol employment Tribunal in the correspondence she had with the Tribunal. Quite clearly, there is nothing that inhibited the Claimant from bringing claims between the termination of her employment with the Respondent and the bringing of her claim on 30 July 2017 given she has brought claims against the Wiltshire police.
9. The burden is on the Claimant to satisfy me that it would be just and equitable to extend time. Considering the information brought before me by the Respondent and in the absence of the Claimant at this hearing I do not find that it would be just and equitable to extend time.

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Employment Judge Martin  
Date: 09 November 2017