



Case No: 2204784/2018

EMPLOYMENT TRIBUNALS

Claimant

Respondent

Ms BS Vandenberg

v

v

Atos IT Services UK Ltd

PRELIMINARY HEARING

Heard at: London Central Employment Tribunal

On: 21 September 2018

Before: Employment Judge Palca

Appearances

For the Claimant:

In person

For the Respondent:

Mr D Isenberg (Counsel)

JUDGMENT

The Claimant's claim of sex discrimination is struck out.

REASONS

1. The Claimant has brought claims of sex discrimination and constructive unfair dismissal against the Respondent. Following a request from the tribunal, the Claimant provided details of the incidents which she claims discriminated against her on grounds of her sex. There were 4 incidents, the latest of which took place in November 2015.
2. The Claimant lodged a grievance with the Respondent in March 2016, complaining, among other things, that the incidents which had taken place in 2015 amounted to sex discrimination. She told the tribunal that she had raised the issues repeatedly after that time with her line management and others. She said she had not brought a claim at this stage because she had felt victimised, belittled and powerless and had felt that lodging a grievance was the best option.
3. The Claimant accepted that she was bringing her claim out of time, but argued that it would be just and equitable to extend time because it is a very serious step which should not be taken lightly, the issues will be raised anyway in the unfair dismissal

claim and the claim has a prospect of success. The Respondent argued that the claimant had clearly been aware of her claims for some time, and that it would be prejudiced if the claims were to proceed. Of the three individuals specifically referred to in the claimant's account of the discriminatory acts, the tribunal was told that one remains employed, one has left, and those before the tribunal had no information about the third.

4. The Claimant's ET1 was filed on 28 May 2018.
5. S 123 of the Equality Act 2010 provides that
6. The time between the final act of discrimination relied on by the Claimant is 2 years 6 months. This is a very substantial period of time. It is evident that the claimant was well aware of the facts, and believed, from at least March 2016 on, that she had been discriminated against. She felt strong enough to bring the subject up to her line management and others at other subsequent times.
7. The tribunal considered that since the allegations relied on event which took place around 2.5-3 years ago, which might be very nuanced, there was a risk that the delay could affect the cogency of the evidence.
8. The fact that the claimant delayed bringing her claim in this matter considerably beyond lodging her grievance, and around 8 months after resigning and claiming constructive dismissal is significant. The Claimant says that she was working hard finishing a project until end December 2017, but she still delayed nearly 5 months after that time before bringing the claim. She was aware of the relevant facts and law by spring 2016, but did not act promptly after that in bringing the claim.
9. The tribunal considered that the respondent would be more prejudiced than the claimant should the discrimination claim be allowed – it might have grave difficulties obtaining accurate evidence in relation to the matters, while the claimant was still within time to bring her constructive unfair dismissal claim.
10. For these reasons, the tribunal did not consider it just and equitable to extend the time for the Claimant to bring her sex discrimination claims, and they are therefore struck out. The unfair dismissal claim remains.

**Employment Judge Palca
21 September 2018**

Sent to the parties on:
26 September 2018

For the Tribunal