



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant **Respondent**
Mr M Ali and Sainsbury's Supermarkets Limited

Public Preliminary Hearing
held at Reading on 12 November 2018

Representation **Claimant:** Did not attend and not represented
Respondent: Ms T Burton, counsel

Employment Judge Mr S G Vowles (sitting alone)

JUDGMENT

- 1 The Claimant's claim, which included complaints of age, race, sex and religion/belief discrimination, was presented to the Tribunal after the expiry of the 3 months' time limit in section 123 Equality Act 2010. The Tribunal has no jurisdiction to consider the claim and it is dismissed.
- 2 Reasons for this judgment were given orally at the hearing. Written reasons are also attached below.

REASONS

- 3 Section 123 Equality Act 2010 reads as follows:
Time Limits
 - (1) *Subject to sections 140A and 140B, proceedings on a complaint within section 120 may not be brought after the end of-*
 - (a) *the period of 3 months starting with the date of the act to which the complaint relates, or*
 - (b) *such other period as the employment Tribunal thinks just and equitable.*
- 4 The Claimant claimed that he was employed by the Respondent from 20 May 2013 until 8 July 2015 and complained of discrimination during the course of that employment.

- 5 The ET1 claim form was presented to the Tribunal on 7 November 2017. It was therefore presented 2 years 4 months after his employment ended and after the expiry of the 3 months' time limit in section 123 Equality Act 2010.
- 6 In Robertson v Bexley Community Centre t/a Leisurelink [2003] IRLR 434 the Court of Appeal stated that when employment tribunals consider exercising the discretion to extend the time limit there is no presumption that they should do so unless they can justify failure to exercise the discretion. Quite the reverse, a tribunal cannot hear a complaint unless the applicant convinces it that it is just and equitable to extend time so the exercise of the discretion is the exception rather than the rule.
- 7 The Claimant failed to attend or to be represented at the hearing. His application for postponement of the hearing was refused on 9 November 2018. He has failed to give any explanation for the delay in presenting the claim either in the ET1 claim form or since.
- 8 There are no grounds to exercise the discretion to extend the time limit. The Tribunal has no jurisdiction to consider the claim.

Employment Judge Vowles

12.11.2018

Sent to the parties on

.....16.11.18.....

.....
for the Tribunal Office