



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Ms R Kelly

v

Blackburn with Darwen Council

Heard at: Manchester (by Cloud Video Platform ('CVP'))

On: 21 January 2021

Before: Employment Judge Johnson

Appearances

For the Claimant: in person

For the Respondent: Mr Barron (solicitor)

JUDGMENT

1. The first preliminary issue of whether the claimant was disabled in accordance with section 6(1) Equality Act 2010 could not be determined today, because the claimant failed to give full disclosure of her medical before the hearing today.
2. In relation to the second preliminary issue, the Tribunal does not have jurisdiction to hear the complaint of disability discrimination because this claim was presented out of time and it was not just and equitable to extend time in accordance with section 123 Equality Act 2010.
3. As a consequence, it is no longer necessary to determine as a preliminary issue, the question of whether or not the claimant was disabled, and no further orders are made in this regard.
4. The respondent's application dated 23 December 2020 and seeking an order that the claimant's complaint of constructive unfair dismissal should be struck out in accordance with Rule 37(1)(a) is unsuccessful. This is because the Tribunal is not satisfied that the complaint has no reasonable prospects of success.
5. The respondent's alternative application that the claimant's complaint of constructive unfair dismissal be subject to a deposit order is successful in

that the Tribunal is satisfied that this complaint has little prospect of success in accordance with Rule 39(1).

6. The claimant's remaining complaint of constructive unfair dismissal will proceed to the final hearing but is subject to a deposit order and revised case management orders which will be sent to the parties separately from this judgment.
7. The 5-day final hearing listed to take place in Manchester on 23, 24, 25, 26 and 27 August 2021, will now be reduced to 4 days with the hearing taking place on 23, 24, 25 and 26 August 2021 only.

Employment Judge Johnson

Date: 21 January 2021

Sent to the parties on:

28 January 2021

For the Tribunal Office

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.