



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr J Trotman

v

Romero Multi Academy Company

Heard at: Birmingham by CVP

On: 23 November 2020

Before: Employment Judge Broughton

Appearances:

For Claimant: in person

Respondent: Mr Wallace, counsel

PRELIMINARY HEARING JUDGMENT

1. The claimant's claim of race discrimination was presented out of time and it is not just and equitable to extend time. That claim is, therefore, dismissed.
2. The claimant's claim of disability discrimination (failure to make reasonable adjustments) in relation to use of a laptop will, subject to further orders, be determined at a full hearing.
3. This hearing was not listed to consider whether the claimant's disability discrimination claim was out of time and, in any event, the limitation issue should be determined at the final hearing.

Employment Judge Broughton

30 November 2020

Reasons on disability

4. The issue before me was whether the claimant was disabled as defined by the Equality Act 2010 in relation to various eye conditions.
5. It was not in dispute that the claimant had the eye conditions claimed, albeit the respondent contended that these were largely, if not entirely, remedied by surgery long before the claimant started working for the respondent.
6. There was also no dispute that the conditions were long term. They commenced at birth and were ongoing. The principal issue before me was whether they had a substantial adverse effect on the claimant's normal day to day activities.
7. It was the claimant's case that his eyes had deteriorated after the respondent had required him to use a laptop. He said this was a permanent deterioration such that he now needed eye drops every day.
8. The issue for me, however, was whether the claimant was disabled, as defined, when the alleged failure to make reasonable adjustments arose.
9. There was scant medical evidence, beyond the diagnoses themselves, as to the effect on the claimant.
10. There was evidence to suggest that the claimant's laser eye surgery had been a success but little to support his evidence that certain symptoms or effect continued. The claimant said that his consultant was abroad and so he had been unable to provide anything more, although it was unclear why this couldn't have been requested sooner.
11. When the claimant had completed a health questionnaire on joining the respondent he had declared that he had no past or present disability or impairment and had no need for adjustments.
12. The claimant was asked about this in cross examination. His response was to say that the information he had given was correct at the time, an answer he gave three times.
13. When it was then put to him that his symptoms must, therefore, have been resolved as at February 2018, the claimant gave a different answer, saying instead that he had not wanted to disclose his disability.
14. The claimant was asked to explain this discrepancy. He said that his earlier responses had been incorrect and claimed that this was due to nerves.
15. It seemed to me, however, that his nerves were due to trying to give the answers he thought I needed to hear, which cast serious doubts over his credibility.
16. That said, it was his evidence that he was unable to regularly use a laptop, seemingly a normal day to day activity, without adjustments. He also said that he often needed to wear sunglasses and that he had never been able to drive.

17. That latter point only arose following a question from me and the respondent was in no position to challenge it.
18. There was clearly enough, therefore, on the claimant's evidence, if accepted, for him to qualify as a disabled person, by virtue of these substantial alleged effects on his day to day activities.
19. Despite my concerns about the claimant's credibility, they were insufficient for me to completely reject these assertions about his limitations. However, I am reluctant to declare him as disabled when the respondent had a limited opportunity to challenge some of that evidence.
20. As a result I have made certain case management orders which the claimant must comply with on an "Unless" basis. If the respondent continues to dispute the disability question thereafter, it will remain "live" at the final hearing.