



EMPLOYMENT TRIBUNALS

Claimant: Ms. W. Gainey

Respondent: Compass Group UK and Ireland Ltd.

Hearing: Public Preliminary Hearing

Heard at: London Central ET (by video/CVP)

On: 23 January 2025

Before: Employment Judge Tinnion

Appearances: For Claimant: In person
For Respondent: Mr. Bryne, In-house HR representative

JUDGMENT

1. The Claimant's unfair dismissal claim against the Respondent under the Employment Rights Act 1996 is dismissed because she was not employed by the Respondent for the minimum period of 2 years required in order to bring this claim.

REASONS

2. Reasons for dismissing the Claimant's unfair dismissal claim were given orally by the Tribunal at the PPH on 23 January 2025, but summarising briefly:
 - a. by her ET1, the Claimant presented a complaint of unfair dismissal under the Employment Rights Act 1996 against the Respondent;
 - b. a claim of unfair dismissal under ss.94-98 of the Employment Rights Act 1996 requires the employee to be employed by their employer for a continuous period of at least 2 years before they have the right to bring this claim (see s.108(1) of the Employment Rights Act 1996);
 - c. it is not in dispute, and the Claimant accepts, that the Claimant was not employed by the Respondent for a period of 2 years (she was employed for approximately 2 months), hence lacks the minimum 2 year period of employment required;
 - d. there are certain types of unfair dismissal claim identified in the Employment Rights Act 1996 which do not require any minimum period of employment, but those types of claim do not include complaints that a dismissal was unfair because it was an act of direct race or age discrimination under s.13 of the

Equality Act 2010, the sole basis upon which the Claimant contended that she was excused from the requirement of having at least 2 years employment;

- e. the Claimant submitted complaints of unfair dismissal based on direct race or age discrimination "*should*" be considered to be categories of 'automatic' unfair dismissal where the minimum 2 year period of service should not apply, but the Tribunal has no power or discretion to extend the existing categories of 'automatic' unfair dismissal claim set out in the Employment Rights Act 1996, which is solely a matter for Parliament to determine.

3. A copy of this judgment will be published online after it has been sent to the parties.

Approved: Employment Judge Tinnion

Date of signature: 26 January 2025

Date sent to parties: 29 January 2025

For the Tribunal Office: