

Price v Transport for London UKEAT/0005/11/JOJ

Keywords: *Reasonable Adjustments – Time Limits – Extension of Time*

C alleged that R had failed to make reasonable adjustments. The ET held that her claim was presented out of time and refused to grant an extension of time. C appealed.

FACTS

C was a ticket inspector on buses. She had to generate reports using a template. She had difficulty reading and writing and was diagnosed as dyslexic. In May 2006 C was assessed by R's consultant who recommended that she have a screen reader and voice recognition software. There was a delay in providing the software and C lodged a grievance in October 2008. R then provided C with the software to help her with reading and writing but did not provide any training on how to use it despite repeated requests. C eventually wrote a letter dated 28.01.09 complaining that R had failed to make reasonable adjustments for her disability by not training her in the use of the software. At around the same time R also made a conscious decision to only provide C with a DVD - so that she could train herself. C presented her ET1 on 04.10.09. The ET held that her claim was out of time and refused to extend time. C appealed on the basis that the discretion to extend time was wrongly exercised.

HELD

The ET referred to the case of *Matuszowicz v Kingston Upon Hull City Council* [2009] IRLR 95 (see [Art/NLJ/July 2009](#)), and held that time started to run when R ought reasonably to have made the adjustment or when a conscious decision had been made not to provide the adjustment. As a result the ET concluded that time started to run at some point prior to 28.01.09, when C had written her letter of complaint. The ET made this finding even though it had not indicated to the parties that it considered 28.01.09 to be a crucial date.

C appealed on the basis that the ET had erred in not bringing to the parties' attention the reliance it was going to place on the letter dated 28.01.09. The EAT rejected C's appeal. The EAT commented that the fact that C continued to complain about R's failure and the fact that R had indicated that it would act could "*not reasonably have affected the judgment of a tribunal as to whether or not it was just and equitable to extend time.*" The appeal was therefore academic since time would not have been extended even if the ET had told the parties its view.

COMMENT

This case is a reminder of the significance of time limits in reasonable adjustments cases. In *Matuszowicz v Kingston Upon Hull City Council* the Court of Appeal stated that the harshness of the rules in Schedule 3(3) of the DDA 1995 could be mitigated by a flexible approach to extending time. However, the EAT's approach in this case does not seem to reflect that. In particular it is surprising that the EAT considered that it was irrelevant that C was complaining about R's alleged failures and that R was promising to implement adjustments.

This case will encourage respondents to take preliminary points in reasonable adjustments cases more often.