



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

Mr R Sumner

v

Tesco Stores Limited

**Heard at:** Norwich

**On:** 5 September 2019

**Before:** Employment Judge Cassel

**Appearances**

**For the Claimant:** Not present, nor represented

**For the Respondent:** Miss L Whittington, Counsel

## JUDGMENT

1. The Tribunal has no jurisdiction to hear the complaint of Unfair Dismissal or Unlawful Deduction from Wages and both claims are dismissed.

## REASONS

1. In his claim form to the Tribunal, the Claimant, Mr Richard Sumner, claimed that he had been unfairly dismissed from his position as a Customer Assistant and that the Respondent had made an unlawful deduction from his wages.
2. The claims are resisted.
3. On 9 April 2019, Employment Judge Postle directed that the Full Merits Hearing, which had been set for today, be converted to a Preliminary Hearing to determine two issues:
  - (i) whether the Tribunal has jurisdiction to hear the Claimant's claim of unfair dismissal, given the claim was filed before the Claimant's employment was terminated; and
  - (ii) whether the Claimant's claim for unlawful deduction of wages was outside the three month period following the last deduction.

4. At 18:06 hours of the evening of 4 September 2019, the Claimant sent an email to the Tribunal in terms that he had started his new job and that he had been training for that job for the past two months. No reason was given as to why it was only on the eve of the hearing, after the tribunal offices had closed, that he felt it was appropriate to give notice in the terms that he did. It is obviously a matter of considerable regret that he could not have contacted the Tribunal earlier and inform the solicitors instructing Counsel, who had travelled from London to attend the Hearing, and the Tribunal, that he was unable to attend. A significant saving to both the Respondent's solicitor and the Respondent and the public purse would have thus been made.
5. Having heard representations from Miss Whittington and read her helpful skeleton argument and seen the exhibits that were presented, there is no doubt that the Early Conciliation Certificate was issued at a date prior to the Claimant's termination of employment and thus the Tribunal has no jurisdiction to hear his complaint of unfair dismissal.
6. The deductions of which complaint is made was payable, so it is alleged, on 27 July 2018. The Claimant applied to Acas for Early Conciliation on 7 August 2018 and the Certificate was issued on 7 September 2018. The last day for him to bring a claim for unlawful deduction of wages therefore, was 26 November 2018.
7. The claim form was received on 2 December 2018 and there is no evidence or submission from the Claimant that it was not reasonably practicable for him to have presented the claim on or before 26 November 2018. In the absence of any explanation or evidence to extend the period in which the claim should have been presented, the Tribunal has no jurisdiction. The claim for unlawful deduction from wages is therefore dismissed.

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Employment Judge Cassel

Date: 9 September 2019

Sent to the parties on: 26 / 9 / 2019

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For the Tribunal Office