



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr J Messadie  
**Respondent:** Harvard Technology Limited (In Administration)

## AT A HEARING

**Heard at:** Leeds                      **On:** 17<sup>th</sup> October 2019  
**Before:** Employment Judge Lancaster

### Representation

**Claimant:** Did not attend but made representations in writing  
**Respondent:** No appearance entered and did not attend

## JUDGMENT

1. It was not reasonably practicable to have presented the claim in time and it was presented within a reasonable time after 14<sup>th</sup> March 2019. Time to present the claim is therefore extended and it may proceed.
2. The claim for a protective award succeeds.
3. The Respondent is ordered to pay to the Claimant remuneration for a protected period of 90 days beginning on 10th December 2018.
4. The Employment Protection (Recoupment of Benefit) Regulations 1996 regulations 6, 7 and 8 apply to this award.
5. The Respondent is accordingly advised of its duties under the Regulations and any award made will be postponed pending any service of a recoupment notice by the Secretary of State in respect of relevant benefits received by the Claimant in the prescribed period and only the balance of any remuneration due will then be payable directly to the Claimant.

## REASONS

1. The claim was originally presented on 4<sup>th</sup> February 2019 which would have been in time.

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2. At this date the Claimant did in fact have an ACAS Early Conciliation Certificate but because he did incorrectly stated on the form that he did not it was properly rejected.
3. That rejection was not, however, communicated to the Claimant until 15.17 on 13<sup>th</sup> March 2019. Although this was still just in time (by reason of the 5-day extension to the ordinary time limit expiring on 9<sup>th</sup> March 2019 to allow for the “clock being stopped” during the nominal period of Early Conciliation) I am satisfied that it was not reasonably practicable for the Claimant to have then acted immediately.
4. The Claimant is entitled to assume that his claim has been properly submitted unless and until he is informed otherwise by the tribunal and there was a substantial delay in notifying him of the defect.
5. He did then respond reasonably promptly to the rejection letter and rectified the defect on 22<sup>nd</sup> March 2019.

EMPLOYMENT JUDGE LANCASTER

DATE 17<sup>th</sup> October 2019

**Note**

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a written request is presented by either party within 14 days of the sending of this written record of the decision.

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