



EMPLOYMENT TRIBUNALS

Claimant

Mr C Jones

v

Respondent

Kingstown Furniture

(In administration)

PRELIMINARY HEARING

Heard at: **Hull**

On: **5 February 2020**

Before:

Employment Judge Shulman

Appearance:

For the Claimant:

In person

For the Respondent:

Did not appear and was not represented

JUDGMENT

The judgment of the Tribunal is that it was not reasonably practicable for the complaint to be presented during the period of three months and that time is hereby extended to allow the Claimant to proceed with his claim.

REASONS

1. Introduction

This is a preliminary hearing to decide whether or not time should be extended to enable the Claimant to pursue his claim pursuant to section 189(5)(c) Trade Union and Labour Relations (Consolidation) Act 1992 (TULRA).

2. Issues

The sole issue in this case, the Claimant being out of time making his claim, is whether time should be extended under section 189(5)(c) TULRA.

3. The Law

The Tribunal has to have regard to section 189(5) TULRA which states that an Employment Tribunal shall not consider a complaint under section 189 TULRA unless it is presented to the Tribunal in time or where the Tribunal is satisfied that it was not reasonably practicable for the complaint to be presented during the period of three months within such further period as it considers reasonable.

4. Facts

The Tribunal having carefully reviewed all the evidence (both oral and documentary) before it finds the following facts (proved on the balance of probabilities):

- 4.1. It is not in dispute that the Claimant was out of time in his claim, indeed when the Employment Tribunal accepted his claim on 7 August 2019 it treated the claim as having been made on 8 July 2019.
- 4.2. The Claimant was dismissed without notice or consultation on 13 March 2019 and his three-month period expired on 12 June 2019.
- 4.3. When the Claimant issued his claim on 8 June 2019 he failed to give the necessary Early Conciliation notice. Indeed, his Early Conciliation notice was dated 25 June 2019.
- 4.4. The Claimant says that he was advised by a Mike Cooper, an employee of the Respondent, that there was no need for the Claimant to contact ACAS because the Respondent was ceasing to exist. Mr Cooper's role seems unofficial and the Claimant seems unclear as to Mr Cooper's status. Nevertheless, the Claimant appears to have relied on Mr Cooper and never discussed what his colleagues had done, of whom there were many, in relation to the question of ACAS.
- 4.5. The Tribunal pointed out to the Claimant on 19 June 2019 that his claim had been issued without notification to ACAS and it was not until 22 July 2019 that the Claimant entered the Early Conciliation procedure and supplied the conciliation number to the Tribunal.
- 4.6. The Tribunal said, on 7 August 2019, that it accepted the claim but it was treated as having been issued on 8 July 2019.
- 4.7. The Claimant accepted before the Tribunal that he was out of time but he did present his claim slightly a month over the time limit.

5. Determination of the issues

Having listened to the factual submissions made by the Claimant the Tribunal determines the matter as follows:

- 5.1. The Claimant certainly took advice but he did so from a factory worker whose status is uncertain.
- 5.2. The Claimant himself did not know the procedures in relation to the claiming of a protective award.
- 5.3. He was a man of 8¹/₂ years' service and a good worker.
- 5.4. No notice or consultation was given to him.
- 5.5. In all the circumstances the Tribunal extends the time necessary for the Claimant to pursue his claim.

Employment Judge Shulman

12 February 2020