



THE EMPLOYMENT TRIBUNALS

PUBLIC PRELIMINARY HEARING

Claimant: Mrs J Avery

Respondent: Waterloo House Rest Home Limited

Heard at: Newcastle Hearing Centre **On:** Thursday 15th October 2020

Before: Employment Judge Johnson

Representation:

Claimant: No attendance no appearance

Respondent: Ms S Clarke of Counsel

JUDGMENT ON PRELIMINARY ISSUE

The claims of unfair dismissal and unlawful deduction from wages were presented outside the time limit prescribed for doing so, in circumstances where it was reasonably practicable for them to be presented within the time limit. They cannot be considered and are dismissed.

REASONS

1. This matter came before me this morning by way of a public preliminary hearing via the CVP platform. The purpose of the hearing was to consider whether the employment tribunal has jurisdiction to hear the claimant's complaints of unfair dismissal and unlawful deduction from wages, both of which appears to have been presented out of time.
2. By notice sent to the parties on 21st September 2020 and addressed to the claimant at the address on her claim form, the parties were notified of the date and time of today's hearing and the means by which the hearing would take place. The parties were notified of the issues which would be considered and decided at

this hearing. The notice confirms that the hearing will take place on Thursday 15th October 2020 at 10.00am by means of video conference.

3. By 10.00am, the respondent's representative Ms Clarke and the employment judge had joined the conference. The claimant had failed to do so. By 10.20am the claimant had still failed to join the conference. Attempts were made by the employment tribunal staff to contact the claimant by telephone, using the telephone number which appears on her claim form. The claimant failed to answer the telephone call.
4. Nothing has been received from the claimant to indicate that she would not be attending today's conference. Ms Clarke for the respondent today informed me that the solicitors acting for the respondent had sent an e-mail message to the claimant on Monday of this week, but that no reply has been received from the claimant.
5. Ms Clarke invited me to proceed with the hearing. I agreed to do so. Ms Clarke submitted that in the absence of the claimant, there was no evidence to support her contention that she had within the time limit sent her claim form by post to the Nottingham regional office of the employment tribunal.
6. I referred Ms Clarke to the employment tribunal's website, which gives guidance to potential claimants as to how to complete the claim form ET1, the time limits for completion of the claim form and the means by which the claim form should be submitted to the employment tribunal. The means for submission are as follows:-
 - (i) on line;
 - (ii) by post to central office in Leicester;
 - (iii) delivery by hand to the local employment tribunal regional office.
7. The claimant has failed to submit her claim form in accordance with any of those three alternatives. The claimant has not provided any explanation as to why she posted her claim form to Nottingham. The claim form clearly contains an e-mail address for the claimant, which means that the claimant must have access to a computer, particularly as she has been able to locate and print off the claim form itself.
8. Time limits within the employment tribunals are particularly strict. The claimant, having entered into ACAS early conciliation, should have submitted her claim form to the employment tribunal by not later than 20th February 2020. The claim form was not presented until 5th May 2020.
9. The employment tribunal has a discretion to extend the time limit if it is satisfied, from evidence given by the claimant, that it was not reasonably practicable for the claimant to present the claim form within the time limit. In the absence of any meaningful evidence from the claimant in that regard, I am not satisfied that it was not reasonably practicable to do so. The claim is out of time. The tribunal does not have jurisdiction to hear the claims. The claims are dismissed.

Case Number: 2500892/2020

Authorised by EMPLOYMENT JUDGE JOHNSON

**JUDGMENT SIGNED BY EMPLOYMENT
JUDGE ON 20 October 2020**

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