



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms Mason

**Respondent:** Miltech Engineering Limited

## RECORD OF A PRELIMINARY HEARING

**Heard at:** Watford (CVP)

**On:** 19 November 2020

**Before:** Employment Judge S Moore (sitting alone)

### Appearances

**For the Claimant:** In person

**For the Respondent:** Ms Boyle, solicitor

This has been a remote hearing on the papers to which the parties/consented did not object. The form of remote hearing was CVP. A face to face hearing was not held because it was not practicable and all matters could be determined in a remote hearing.

## JUDGMENT

The claims have been brought out of time in circumstances where it was reasonably practicable for them to have been brought in time. The Tribunal therefore has no jurisdiction to hear them and they are struck out.

## REASONS

1. This Preliminary Hearing was listed to decide whether the claims had been brought in time and/or whether it was reasonably practicable for them to have been brought in time.
2. The Claimant was employed as Race Team Secretary/Administrator and her employment started on 24 April 2019. Her employment terminated following a three-month notice period on 16 January 2019.

3. She has brought claims for unpaid holiday pay pursuant to regulation 14 of the Working Time Regulations 1998 (WTR) and in respect of damage caused to her car by a third party while attending a race event between 25-28 July 2019. The basis on which she pursues a claim against the Respondent for reimbursement of the cost of repairing her car is unclear, but the most favourable assumption (for the Claimant) is that it is a claim for breach of contract which was outstanding on the termination of her employment.
4. Claims for unpaid holiday pay and for breach of contract must be brought within 3 months of the effective date of termination of the contract of employment or such other period as the tribunal considers reasonable where it is satisfied it was not reasonably practicable for the complaint to have been brought within three months (see regulation 30 WTR and paragraph 7 of the Extension of Jurisdiction Order 1994).
5. The claims should therefore have been brought by 15 April 2020. They were not lodged however until 19 May 2020. Although time limits do not run during the period of mandatory early conciliation, in this case the ACAS early conciliation certificate states that early conciliation was not initiated until 19 April 2020, by which time the 3-month time limit had already expired.
6. Since the claims were brought out of time the next question is whether it was reasonably practicable for them to have been brought in time.
7. In this respect the Claimant accepted that she had been in dispute with her employer as regards her holiday pay since October 2019 and that the dispute continued after the termination of her employment. On 1 April 2020 the Claimant received a "final letter" telling her she had been paid everything that was due to her. It had also been plain for some time that the Respondent was not going to reimburse her for the damage she suffered to her car in July 2019. As at 1 April 2020 the Claimant still had two weeks before the deadline for submitting her claims/initiating early conciliation expired and indeed she contacted ACAS on 3 or 4 April 2020. There is therefore no reason why she couldn't have complied with the time limit. She said that by contacting ACAS she thought she had done what she needed to do, however in my judgment she ought to have known or to have found out the correct position. Her dispute with the Respondent had been ongoing for some time and she had plenty of time to take advice or to research the position. Further she had plainly found out enough to know that she needed to contact ACAS prior to bringing a claim and in these circumstances it can't be said that it was not reasonably practicable for the claims to have been brought in time.
8. Since the claim are out of time the Tribunal has no jurisdiction to hear them and they are therefore struck out.

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**Employment Judge S Moore**

Date: 25/11/2020

**Case Number: 3304837/2020 (CVP)**

Sent to the parties on:25/11/2020

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For the Tribunal:

Jon Marlowe