



## EMPLOYMENT TRIBUNALS

**Claimant**

**Mr Saadettin Acikalin**

**Respondent**

**Galanz (UK) Ltd**

### PRELIMINARY HEARING BY VIDEO CONFERENCING

**Heard at: Watford**

**On: 5 October 2020; 26 April 2021.  
10-11 May 2021**

**Before: Employment Judge Bedeau**

**Appearances:**

**For the Claimant:** Mr D Stephenson, Counsel

**For the Respondents:** Mr J Jupp, Counsel

**Interpreter:** Ms Ping Wang, Mandarin

### JUDGMENT

1. The effective date of termination of the claimant's employment was 23 November 2018.
2. It was reasonably practicable for the claimant to have presented his claim in time, accordingly, the unfair dismissal claim under section 103A Employment Rights Act 1996, is struck out as the tribunal does not have jurisdiction to hear and determine it.

### REASONS

1. By a claim form presented to the tribunal on 22 April 2019, the claimant claimed ordinary unfair dismissal, section 98(4) Employment Rights Act 1996, "ERA 1996", and unfair dismissal for making a public interest disclosure, section 103A ERA 1996.
2. As he did not have two years continuous service, his ordinary unfair dismissal claim was rejected.

3. In the response presented on 3 July 2019, the respondent raised the issue of the claims being presented out of time as the claimant last worked on 23 November 2018. The primary limitation period expired on 22 February 2019. The claimant only commenced ACAS early conciliation on 4 March 2019, after the expiry of the primary limitation period of three months. It applied for the automatic unfair dismissal claim to be struck out as being out of time and the tribunal does not have jurisdiction to hear and determine it.
4. On 6 March 2020, the case was listed for a preliminary hearing before Employment Judge Alliott to consider the respondent's application. The day before that hearing the respondent's representatives were handed a statement from the claimant in which he asserted that although he was told on 23 November 2018 that he was dismissed with one month's pay in lieu of notice, he was instructed to work during his notice, therefore, his employment was terminated on 21 December 2018. That new evidence and new legal argument, took the respondent by surprise who wanted time to respond. The case was, accordingly, relisted to be heard on 5 October 2020, for one day. The Judge also listed the case for a final hearing, over six days, from 10 May 2021. The hearing and subsequent adjourned hearings, were before me.

### **The issues**

5. Judge Alliott set out the issues for me to hear and determine. They are as follows:-
  - 5.1 When was the claimant's effective date of termination of his contracted employment?
  - 5.2 Were all of the claimant's complaints presented within the time limits set out in the Employment Rights Act? This may include whether it was not reasonably practicable for a complaint to be presented within the primary time-limit.

### **The evidence**

6. I heard evidence from the claimant who called Mr John Lee Fagence, former Business Development Manager.
7. On behalf of the respondent evidence was given by Mr Kim "Ying" Zhao, Sales Director for UK and Ireland; and Mr Yong Li, Head of Legal Guangdong Galanz Co Ltd.
8. In addition to the oral evidence the parties adduced a main bundle of documents comprising of 507 pages, and a supplemental bundle of 110 pages. References will be made to the documents in the bundles. The delineation "SB" refers to the supplemental bundle, without it the reference is to the main bundle.

## Findings of fact

9. **Galanz Enterprises is the parent company of the respondent as well as the holding company for the Galanz group of companies.**
10. The Galanz group's business is split into its own equipment manufacturing, "OEM", and own brand manufacturing "OBM". OEM relates to products which the group manufactures on behalf of another company, and OBM are products manufactured and branded as Galanz products. The respondent only deals with promoting and selling OBM products and not OEM products. Its responsibility is to sell Galanz branded products in the United Kingdom. Its offices are on Clarendon Road, Watford, Hertfordshire.
11. In a written contract of employment, dated 27 April 2018, the claimant commenced employment with the respondent for a fixed term of one year from 2 July 2018, as Country Manager. The contract had a probationary period of six months and was terminable during that time on one month's notice or pay in lieu of notice. Thereafter it was terminal on three months' notice or pay in lieu of notice.
12. As Country Manager the claimant was on a basic salary of £130,000 per annum and was responsible for UK sales. He was also responsible for the Galanz Product Launch, initially scheduled to take place in September 2018 to promote the company's own brand manufactured products. (Pages 49 to 73 of the main bundle)
13. He recruited Mr Trevor Dean Mumford, as Head of Sales, and Mr John Lee Fagence, as Business Development Manager. They too were on a six months probationary period. They commenced employment with the respondent on 15 August 2018 and 1 July 2018 respectively.
14. Ms Cathy Sin was appointed a director of the respondent on 17 September 2018 and a member of the board of Galanz Enterprises. Other members of the board included Mr Chiu Yin Leung; and Mr Wai Keung Leung, Vice-Chairman, who is also known as Mr Benjamin Leung. The claimant reported to Ms Sin.
15. In or around July 2018, the claimant raised concerns with the respondent regarding employees from China stationed at its UK head office and whether they had appropriate work visas. The claimant's case being that the issues raised were protected disclosures, in that, he questioned the respondent's compliance with its legal obligations in the UK.
16. As all of Galanz products are manufactured in and shipped from China. Mr Ying Zhao, Sales Director for UK and Ireland, Guangdong Galanz Enterprises Co Ltd, worked closely with the claimant and the respondent's team. He gave evidence on the decision taken to terminate the claimant's employment, and I accepted his evidence. He told me that on 20 November 2018, Galanz, in China, held an internal meeting to discuss the performance of the claimant. It was chaired by Mr Leung, Chairman, and

attended by Ms Sin, Mr Zhao and one other person. After reporting on the claimant's performance, it was decided that he had failed his probation as he did not achieve the required standards of performance. Consequently, his employment should be terminated on payment in lieu of notice. (SB 1a)

18. The board also decided to terminate the employment of Mr Mumford for poor performance at the same time as the claimant.
19. I heard evidence from Mr Yong Li, Head of Legal, Galanz Enterprises. He told me that Ms Sin was Head of the Microwave division at Galanz and was also responsible for the management of the respondent's sales team. She was appointed a director for the purposes of facilitating her day-to-day management of the sales team. She reported to the Board and to Mr Benjamin Leung.
20. Mr Li also said that the Board decided that Ms Sin should travel to England to communicate its decision to the claimant. She asked him, that is, Mr Li, to accompany her. The importance of Mr Li's evidence is that it provides an insight into the decision taken to terminate the claimant's employment and how it should be communicated to him.
21. Much has been made about Mr Li's command of the English language. He said in evidence under cross-examination, that he "could read some English". In preparing his witness statement, the respondent's solicitor transcribed what he said in Chinese into English. I find that he understood some English both written and oral.
22. China has an equivalent to WhatsApp called Wechat. At the conclusion of the hearing on 5 October 2020, the respondent produced Wechat messages from Ms Sin to the claimant which were sent by her to Mr Ying Zhao. These were challenged by Mr Stephenson as they should have been disclosed as part of the disclosure and inspection process. Prior to the next hearing the claimant was given time to produce his own Wechat messages.
23. From the messages provided by the claimant and the respondent, Ms Sin informed the claimant on 22 November 2018, that she would be meeting with him and the other staff members the following day at 8.30am. (SB 69)
23. Mr Li said, and I find as fact, that Ms Sin met with the claimant on 23 November 2018 at the respondent's offices. Mr Li was present. The purpose of the meeting was for Ms Sin to communicate the Board's decision to the claimant. They spoke in English and what he was unable to understand was later explained to him by Ms Sin. It was a short meeting with no notes taken. Ms Sin informed the claimant that his performance was poor, and that the respondent decided to terminate his employment with immediate effect with pay in lieu of one month's notice. The claimant did not raise any questions and understood that that was his last day and left the office after the meeting.

24. After the meeting the claimant messaged Ms Sin:

“I need you to send me a mail officially with reference to my termination.”

25. Ms Sin replied, “Sadi, yes I will send officially”. (SB 70)

26. “Sadi” refers to the claimant. It is the shortened version of his first name.

27. The claimant then gave the email address to where the document should be sent which was at googlemail.com. This was his private email account and not his work email. This is significant because he then messaged that his work email “Maybe switched off.” In fact, it was switched off and he was required to return his company mobile, **laptop** and customers list to the respondent.

28. Ms Sin, following the claimant’s request, sent him an email entitled “Official Notice of Termination of Employment”. In which she wrote:

“Dear Sadi,

First of all, we really appreciated the effort that you did for Galanz in the past months.

Secondly, it is with regret that I have to write to notify you that you have failed your probationary period with Galanz (UK) Limited and the company has decided to terminate your contract today. Here attached the official notice for your reference.

Best regards,  
Cathy” (SB 135)

29. The termination letter is dated 23 November 2018 and reads as follows:-

“Dear Sadi,

**Re: Termination of employment contract during probationary period**

It is with regret that I have to write to notify you that you have failed your probationary period with Galanz (UK) limited (the “**Company**”) and the company has decided to exercise its right under clause 2.2 of your employment contract dated 27 April 2018 (referred to in this letter as “**Contract**”) to terminate your employment during your probationary period with immediate effect by giving this written notice and making a payment in lieu of notice (referred to in this letter as the “**Payment**”).

The Payment is paid in lieu of your entitlement to a month’s notice under the Contract. The Payment is equivalent to one month of your basic salary and payment for any accrued but unused holiday entitlement. Accordingly, the total sum of £14,459.44 will be paid into your bank account within 28 days of this letter in accordance with clause 16 the Contract. As required by law, the sum is paid less income tax and national insurance contributions.

Under clause 10.4 of the contract, you will be paid any accrued but unused holiday entitlement. In accordance with clause 10.6 of the Contract, the

company is also entitled to deduct excess holiday pay from any Payment due to you if you have taken more holiday than your accrued holiday entitlement. After you have received the Payment, your P45 will be sent to you.

In addition, we would like to remind you that certain provisions in your contract will still have effect after the termination of your employment (such as clauses 12 and 22), therefore please read your contract carefully in order to understand those obligations with which you are still required to comply.

Please do not hesitate to contact me if you have any questions.

Yours sincerely  
Jialiang Xian, Director  
For and on behalf Galanz (UK) Limited” (SB 136)

30. The claimant said that during the meeting on 23 November, that Ms Sin produced a letter in which it was stated that his employment was terminated with immediate effect. He was advised that in his place, Mr John Lee Fagence would be taking over the organisation of the Galanz Product Launch Campaign scheduled to take place on 26<sup>th</sup> and 27 February 2019. She requested that he should support Mr Fagence over the following month, December 2018, to assist with the transition. He further stated that there was a verbal agreement between him and Ms Sin that he should not countersign the termination letter as his employment would continue into for an additional month into December 2018.
31. He then said that following the meeting at the Watford office, he, Ms Sin, and Mr Fagence, met at a nearby coffee shop to discuss the transition of work with Mr Fagence and his continued involvement in December 2018 to assist in the Launch preparations.
32. His account of what transpired on 23 and 24 November 2018, has been denied by the respondent.
33. Having considered the evidence I wholly reject the claimant’s account of what happened after he had been verbally told by Ms Sin that he would be dismissed with immediate effect. Firstly, there was nothing preventing the respondent from informing the claimant that the decision to terminate his employment would be on one month’s notice, and that he would be required to work during the notice period, but that was not done. Secondly, the claimant was not handed the termination letter on that date. This is confirmed in his message referred to above in which he expressly requested on 23 November 2018, that there should be an official termination letter. That letter was sent to him together with a covering email on 24 November 2018. Thirdly, there is no provision in the termination letter for his express agreement to his dismissal. It would be most unusual for an employer, having decided to dismiss an employee, for the outcome to be subject to an express assent of the employee. Fourthly, the respondent no longer wanted the claimant’s involvement in the Launch as that role was going to be carried out by Mr Fagence.

34. The claimant said that upon reviewing his personal calendar it shows that he attended meetings in connection with the Launch from 4 December through to 21 December 2018. (158 -161)
35. I do not accept that his diary entries refer to meetings having taken place in the company of Mr Fagence in relation to the product Launch. The entries are nothing more than the names of various venues, dates, and times. No oral evidence had been called from those who allegedly met the claimant in the company of Mr Fagence. Without more, it is just information in his diary. It may be that he was assisting Mr Fagence but without the knowledge and approval of the respondent. It may also be that they worked together in relation to other business interests.
36. Although Mr Fagence said in evidence that he could not do the Launch without the claimant's assistance as he had experience in sales whereas the claimant had the knowledge, experience, and contacts in marketing the Launch. What was interesting was the email he sent to Ms Sin on 29 November 2018, after having been told that he would be retained by the respondent and would be engaged in marketing the Launch. He wrote that he had "more than enough energy and enthusiasm along with all major contacts to make this show a success. With regards to the launch, I have spoken to several of my customers and our media company, along with other marketing agencies, these are the points that I wish to raise to you. Please remember that I have no agenda and I am being completely transparent." He then set out in three numbered paragraphs, what he intended to do to bring about a successful launch which, at the time, was scheduled to take place on the 16 to 18 January 2019,. He then continued, "Please do not think I am doing a Sadi, just want to be open about the situation and how to present our Galanz UK brand with the maximum strength. Believe me, I can make sure we have a very good marketing campaign and there will be nobody better at closing our customers than myself. This will be the big opportunity that we require, I will ensure we are prepared and at our maximum best to achieve the required results.... I have informed Tony that I want his marketing campaign strategy presented at tomorrow mornings conference call." (257-258)
37. His probationary period was extended to 31 March 2019. (249)
38. I was satisfied that Mr Fagence was called by the claimant to give evidence that he, the claimant, assisted him in the Launch. I bear in mind that it was the claimant who persuaded the respondent to recruit Mr Fagence. They are, in my view, friends and it is possible that Mr Fagence asked the claimant to assist with the Launch but that was not with either the expressed or implied approval of the respondent.
39. The respondent worked with a marketing company called Brandeavour, owned by Mr Tony Webb. I accept that Mr Fagence worked with Mr Webb to market the Launch. There is a document purporting to be from Mr Webb addressed to the claimant. It is not dated and was prepared in response to an email from the claimant. In it, Mr Webb states that he attended several meetings with the claimant and Mr Fagence at various venues between 6 to 21 December in connection with the Launch. He

was not called to give evidence and be cross-examined. The document prepared by him is of little evidential value. (157)

40. Much has been said about the email correspondence from Mr Fagence allegedly referring to the claimant's involvement in the Launch. I find that those emails were nothing more than referring to the claimant's prior involvement in the Launch and not him being actively involved in marketing it. Reference to the customers list, on 27 November 2018, was to the information on customers the claimant had acquired prior to his termination. He had been instructed to let Mr Fagence have the list. The list was eventually given to Mr Fagence. (247)
41. The same can be said in relation to Mr Fagence's email dated 20 December 2018, which is a reference to previous information the claimant had disclosed to him. (259)
42. In none of the emails do Mr Fagence refer to the claimant's active involvement in the Launch. The claimant submitted that his role was to assist Mr Fagence. However, I am unable to accept that if that was the case, he would be denied the use of his work mobile phone and access to this email account. Further, as will be referred to later in this judgment, that he would incur expenses without seeking reimbursement from the respondent.
43. On 23 November 2018, Ms Sin discussed with him the possibility of arranging a group dinner. The claimant was, initially, willing to attend but on 25 November, he declined to do so, stating, "Given the circumstances I will not be attending the dinner neither [is] Dean". (73-75)
44. I find that the "circumstances" was a reference to him having been dismissed on payment in lieu of notice.
45. In his message sent on 26 November 2018, to Ms Sin, he stated that he had dropped off his mobile phone and card and that he had a family emergency that he needed to attend to in Turkey and would be there for 10 days as a family member had died. He suggested that they "catch-up in January". (SB 76)
46. When this message was put to him in cross-examination, he said that his grandmother had passed away and had to be buried before sundown the following day. He did not attend the funeral which caused some friction in the family.
47. The claimant told me that as he was required to return his work mobile phone, he used his own phone when working with Mr Fagence. I asked him whether he had submitted an invoice to the respondent covering his phone expenses, he replied that he had experienced problems in getting his last two expenses paid and did not submit one covering December 2018. I treated that statement with some degree of scepticism as there had been no documentary evidence produced showing that he had not been paid his expenses.



48. He received his final payment on or around 30 November 2018. (137)
49. His P45 gives his leaving date as on 23 November 2018. (140-142)
50. From the photographs in the bundle, he attended the Launch in February 2019 and mingled with the respondent's staff. (162-170)
51. He said in evidence, and I do find this fact, that he contacted a firm of solicitors at some point between December 2018 and January 2019 and spoke to a lawyer for about his case for one hour. It is difficult to accept that there would have been no discussion about his potential claims, time limits, and notifying ACAS.
52. He said he contacted ACAS on several occasions in February 2019 during which he told the conciliation officer that although he was told on 23 November 2018, of the termination of his employment, he was allowed to work his notice until 21 December 2018. He said that the ACAS conciliator informed him that he had three months from 21 December during which he must present his claim. I shall come back to this account shortly.
53. ACAS was notified on 4 March 2019 and an Early Conciliation Certificate was issued on 4 April 2019. (1)
54. The claimant presented his claim form on 22 April 2019 in which he did not give the dates of his employment with the respondent in section 5 of the form. If he had clarified the dates of his employment with the conciliation officer, as he claimed, that information should have been given on the form. His claim was for ordinary unfair dismissal and dismissal for making public interest disclosures. (2-12)
55. Employment Judge Manley, on 7 May 2019, ordered he provide dates of his employment to determine which claims should proceed to a hearing. He was given seven days to reply. (13)
56. He replied on 11 May 2019, stating that he commenced employment on 2 July 2018 and that is last day of employment was 23 November 2018. He asserted that his claim was "whistleblowing" as he had raised concerns regarding the "illegal working of Chinese workers resulted in my dismissal on 23 of November." (14)
57. Of significance, if the claimant is right, is that he told the ACAS officer that his last day was 21 December 2018, inexplicably, he wrote that his last day was 23 November 2018.
58. As stated earlier, it was not until the day before the preliminary hearing did he produce a statement asserting that he was allowed to work his notice to 21 December 2018.

59. Ms Sin left her employment with the respondent on 27 August 2019 and give evidence.

### Submissions

60. I have considered the written and oral submissions by Mr Stephenson, Counsel on behalf of the claimant, and by Mr Jupp, Counsel on behalf of the respondent. I do not propose to repeat their submissions herein having regard to rule 62(5) Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, as amended. In addition, I have taken into account the authorities they have expressly referred me to.

### The law

61. Section 97(1) provides for the effective date of termination. Section 97(1)(a) states,

“(a) In relation to an employee whose contract of employment is terminated by notice, whether given by his employer or by the employee, the date on which the notice expires.”

62. Section 111(2) states that an Employment Tribunal shall not consider a complaint under this section unless it is presented to the tribunal -

“(a) before the end of three months beginning with the effective date of termination, or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.”

63. The claimant bears the burden of proving both that it was not reasonably practicable for him to have presented his claim in time and that he presented it within a reasonable time.

64. In the case of Dedman v British Building and Engineering Appliances Limited [1974] ICR 53, the claimant was summarily dismissed. He knew he had some rights under the relevant statute at the time but did not know about the limitation period. He sought advice from a firm of solicitors, but they did not advise him as to the time limit. He presented his claim form out of time. He failed in his application that he be allowed to pursue his unfair dismissal claim as it was not “practicable” for the claim to have been presented in time as he was unaware of the time limit and had sought legal advice but was not told about the time limit. The case was considered by the Court of Appeal.

65. A claimant may know of his or her rights but prevented from exercising them through either “illness, absence, some physical obstacle, or by some untoward an unexpected turn of events” which would make it not practicable to have presented the claim in time. Where the claimant is pleading ignorance of the law, questions had to be asked as to what were his or her opportunities for finding out their rights? Did they take them? If not, why

not? Were they misled or deceived? Were there acceptable explanations for a continuing ignorance of the existence of their rights? Ignorance of his or her rights does not mean that it was impracticable for him to present a complaint in time, Scarman LJ, page 64, paragraphs D to F.

66. In the case of Walls Meat Company Limited v Khan [1978] IRLR499, it was held that it would not be reasonably practicable if there was “some impediment which reasonably prevents, or interferes with, or inhibits, such performance” namely the presentation of a complaint. The impediment may be physical, for instance the illness of the complainant or a postal strike; or the impediment may be mental, the state of mind of the complainant in the form of ignorance of, or mistaken belief with regard to, essential matters such states of mind can, however, only be regarded as impediments making it not reasonably practicable to present a complaint within the period of three months, if the ignorance on the one hand, or the mistaken belief on the other, is itself reasonable”, Brandon LJ, page 502 paragraph 44.
67. In the case of Palmer v Southend-on-Sea Borough Council [1984] ICR 372, it was held that the test of “reasonably practicable” means “Was it reasonably feasible” to present the complaint within three months?
68. Under s.207B ERA, where a claimant notifies ACAS, Day A, and the Early Conciliation Certificate is issued, Day B. In accordance with s.207B (4) ERA 1996, the claimant is then required to submit their claim at least within one month of Day B. This is extended if the “stop the clock” time is in excess of one month, Haque v Luton Borough Council [2018] UKEAT/0180-17-1204.
69. I have also taken into account paragraph 103, the Supreme Court judgment in the case of R (on the application of Bancourt No 3 v Secretary of State for Foreign and Commonwealth Affairs [2018] UKSC 3. Lord Kerr, referring to commercial litigation, adopted the approach of Leggatt J in Gestmin SGPS SA v Credit Suisse (UK) Ltd [2013] EWHC 3560 (Comm), paragraph 22,

“...the best approach for a judge to adopt... Is, in my view, to place little if any reliance at all on witnesses’ recollections of what was said in meetings and conversations, and to base factual findings on inferences to be drawn from the documentary evidence and known or probable facts. This does not mean that the oral testimony serves no useful purpose - though its utility is often disproportionate to its length. But its value lies largely, as I see it, in the opportunity which cross- examination affords to subject the documentary record to critical scrutiny and to gauge the personality, motivations and working practices of a witness, rather than in testimony of what the witness recalls of particular conversations and events. Above all, it is important to avoid the fallacy of supposing that, because a witness has confidence in his or her recollection and is honest, evidence based on that recollection provides any reliable guide to the truth.”, Lord Kerr.

## Conclusion

70. What was the effective date of termination? I am in no doubt that on 23 November 2018, in the company of Mr Li, and at the Watford office, Ms Sin informed the claimant that his employment with the respondent would be terminated immediately and that he would be paid one month's pay in lieu of notice. He was to leave immediately. There was no written termination letter or email handed to the claimant for him to agree. Indeed, later that day he requested an official termination letter. His account that he was required to sign the letter during the meeting is not consistent with his request for an official termination letter. He handed in his mobile phone and other personal property. This is consistent with his employment coming to an end on that day. There is no evidence of emails being sent by him to the respondent's managers or from its managers to him after 23 November 2018. Even in Mr Fagence's email correspondence, he did not refer to having attended meetings in the company of the claimant, nor had he copied-in the claimant in his emails. I placed little weight on his evidence as he had a friendly and business relationship with the claimant.
71. The document prepared by Mr Webb, is of little evidential value as he was not called to be cross-examined.
72. If the claimant had worked for the respondent, I would have expected him to have claimed for his expenses and be paid accordingly. I did not accept that he had an issue with his previous expenses claims and they do not form part of his case against the respondent set out in the claim form.
73. The respondent had confidence in Mr Fagence's abilities to proceed with the Launch and extended his probation to March 2019. The claimant attended as he was both a friend of Mr Fagence and probably helped him, as well as the fact that he was involved in the initial stages of marketing the Launch. He did not attend because he was asked to work with Mr Fagence during his notice period on the Launch.
74. Ms Sin clearly communicated with the claimant on 23 November 2018 that he was dismissed summarily for poor performance and had failed his probation. This was confirmed in writing. The words were unambiguous and understood by the claimant who declined to attend the proposed dinner because of the "given....circumstances", meaning his summary dismissal.
75. The three months primary limitation period expired on 22 February 2019. The claimant is unable to avail himself of the extension provisions through ACAS conciliation as ACAS was notified on 4 March 2019. The question is, was it reasonably practicable for the claimant to have presented his claim form in time?
76. Mr Stephenson submitted that the claimant was operating under a genuinely held mistaken belief that his employment ended on 21 December 2018 and applying the judgment in Walls Meat Company

Limited v Khan, referred to above, that belief was reasonably held until he was told otherwise. Accordingly, he presented his claim form on 22 April 2019, a delay of 8 weeks.

77. What is reasonably practicable is what is reasonably feasible, Palmer v Southend-on-Sea Borough Council. The claimant had seen a solicitor on a day between December 2018 and January 2019, for one hour and it must be assumed that there was a discussion about time limits. If not the claimant, being an intelligent man, ought to have made enquiries. He certainly has not alleged that he followed incorrect legal advice. He said that he told the ACAS conciliator that his last day was 21 December 2018 and was advised that he had three months from that date to put in his claim form, yet in his response to EJ Manley's order, he put his last day as 23 November 2018.
78. I have come to the conclusion that the claimant was not under a genuine mistaken belief that he was dismissed on 21 December 2018. He knew he was dismissed on 23 November 2018 and had sought legal advice before the expiration of the three months primary time limit. He had time to notify ACAS and put in his claim form in time but did not do so. Nor was he suffering from any mental or physical impediments which effectively prevented him from presenting his claim in time, Dedman v British Building and Engineering Appliances Limited.
79. Time limits are strictly applied. I can see no reason for extending time on the basis that it was not reasonably practicable to present the claim in time. Accordingly, the claim was presented out of time and the tribunal does not have jurisdiction to hear and determine it. It is, therefore, struck out.

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**Employment Judge Bedeau**

12 May 2021

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Sent on

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For the Tribunal

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